

AGENDA  
KANSAS LOTTERY GAMING FACILITY REVIEW BOARD  
9 am, Thursday, October 28, 2010  
Raymond Frye Complex, Auditorium A  
320 North Jefferson, Wellington, Kansas

- A. CALL TO ORDER
- B. APPROVAL OF THE AGENDA
- C. BOARD ITEMS
  - 1. Regarding the proposed management contract between Peninsula Gaming Partners, LLC and the Kansas Lottery Commission for the south central gaming zone
    - a. Presentation by Kansas Lottery Commission (30 minutes)
    - b. Presentation by Peninsula Gaming Partners, LLC (75 minutes)
    - c. Presentation by the City of Mulvane, the endorsing authority for the proposal (15 minutes)
  - 2. Regarding the proposed management contract between Global Gaming KS LLC and the Kansas Lottery Commission for the south central gaming zone
    - a. Presentation by Kansas Lottery Commission (30 minutes)
    - b. Presentation by Global Gaming KS LLC (75 minutes)
    - c. Presentation by Sumner County, the endorsing authority for the proposal (15 minutes)

The board reserves the right to question each entity without any time limitation.
- D. PUBLIC COMMENTS (90 minutes)

Persons interested in making comments to the board may do so during this time. Those speaking must provide their name, address and, if affiliated with a specific group, identify that group. They also will be asked on behalf of which proposal or proposals they wish to speak or if they are making general comments. Each person will have two minutes to address the board.
- E. OTHER MOTIONS
- F. STAFF REPORTS
  - 1. Executive Director
  - 2. Review Board Liaison
- G. ADJOURNMENT

**LOTTERY GAMING FACILITY MANAGEMENT CONTRACT**  
(Pursuant to the Kansas Expanded Lottery Act)

This LOTTERY GAMING FACILITY MANAGEMENT CONTRACT ("Agreement") is for the development, construction, and management of a Lottery Gaming Facility, the business of which will be owned and operated by the Kansas Lottery, to be located in the South Central Gaming Zone.

This Agreement is between the Kansas Lottery, which is acting on behalf of the State of Kansas in accordance with the Kansas Expanded Lottery Act, K.S.A. 2008 Supp. 74-8733 through 74-8773, and Peninsula Gaming Partners, LLC, a Delaware limited liability company ("Manager").

NOW THEREFORE, in consideration for the mutual promises and covenants between the parties, it is agreed that:

1. **Certain Defined Terms.** The capitalized terms listed below will have the following meanings. Any other capitalized terms not specifically defined in this Agreement will have the meanings attributed to them in the Kansas Lottery Act, the Kansas Expanded Lottery Act, or the rules and regulations implementing those Acts, as the case may be, and as amended from time to time.
  - a) "Ancillary Lottery Gaming Facility Operations" means additional non-lottery facility game products and services not owned and operated by the state which may be included in the overall development associated with the Lottery Gaming Facility. Such operations may include, but are not limited to, restaurants, hotels, motels, museums or entertainment facilities.
  - b) "Application for Lottery Gaming Facility Manager" means the competitive proposal and all attachments submitted to the Kansas Lottery by Manager under the Kansas Expanded Lottery Act for the privilege of being designated the Lottery Gaming Facility Manager in the South Central Gaming Zone.
  - c) "Business Plan" means the document prepared by Manager and approved by the Executive Director, at least annually, setting out the management activities anticipated for the Lottery Gaming Facility as provided below in Paragraph 11 for an upcoming Fiscal Year or portion of Fiscal Year as the case may be.
  - d) "Commencement Date" means the date specified in writing when the Executive Director first determines Manager has satisfied all conditions required by this Agreement so that Lottery Facility Games may be offered for play at the Lottery Gaming Facility.
  - e) "Commission" means the Kansas Lottery Commission.
  - f) "Effective Date" means the date this Agreement is signed by all the parties and all required approvals for the Agreement are obtained in accordance with the Kansas Expanded Lottery Act and rules and regulations promulgated pursuant thereto, subject to Section 9 of this Agreement.

- g) “Electronic Gaming Machine” means any electronic, electromechanical, video or computerized device, contrivance or machine authorized by the Kansas Lottery which, upon insertion of cash, tokens, electronic cards or any consideration, is available to play, operate or simulate the play of a game authorized by the Kansas Lottery pursuant to the Kansas Expanded Lottery Act, including, but not limited to, bingo, poker, roulette, blackjack, keno and slot machines, and which may deliver or entitle the Player operating the machine to receive cash, tokens, merchandise or credits that may be redeemed for cash, tokens, service or merchandise. Electronic Gaming Machines may use bill validators and may be single-position reel-type, single or multi-game video and single-position multi-game video electronic game, including, but not limited to, poker, blackjack and slot machines. Electronic Gaming Machines are one type of Lottery Facility Games.
- h) “Executive Director” means the executive director of the Kansas Lottery.
- i) “Fiscal Year” means the accounting year established for the Lottery Gaming Facility, which is specified here to be the twelve month period commencing January 1 and ending on December 31, and includes any partial (short) year.
- j) “Gray Machine” means any mechanical, electro-mechanical or electronic device, available to the public for play that is capable of being used for gambling, that is: (1) not authorized by the Kansas Lottery; (2) not linked to the lottery central computer system as required by the Kansas Expanded Lottery Act; or (3) capable of simulating a game played on an Electronic Gaming Machine or any similar gambling game authorized pursuant to the Kansas Expanded Lottery Act.
- k) “Immediately” means as soon as reasonably practicable given the circumstances of the incident but in no case more than 24 hours.
- l) “Kansas Expanded Lottery Act” means the provisions contained in K.S.A. 2008 Supp. 74-8733 *et seq.*, and amendments thereto which may become effective during this Agreement’s term.
- m) “Kansas Lottery” means the state agency created by the Kansas Lottery Act, K.S.A. 74-8701, *et seq.*, as amended, to operate a lottery or lotteries pursuant to the Kansas Lottery Act or the Kansas Expanded Lottery Act.
- n) “Lottery Facility Games” means any Electronic Gaming Machines and any other games authorized, as of January 1, 2007, to be conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-9802, and amendments thereto, located within the State of Kansas’ boundaries and are owned and operated by the Kansas Lottery.
- o) “Lottery Gaming Enterprise” means the entertainment enterprise and all facilities and operations associated therewith, including a Lottery Gaming Facility and Ancillary Lottery Gaming Facility Operations, as more fully set forth in the Manager’s Application for Lottery Gaming Facility Manager.

- p) “Lottery Gaming Facility” means (i) that portion of the Lottery Gaming Enterprise used for the purposes of operating, managing and maintaining Lottery Facility Games, as more fully described in the Application for Lottery Gaming Facility Manager filed by Manager with the Kansas Lottery and Exhibit C. or (ii) a temporary facility for the purposes of operating, managing and maintaining Lottery Facility Games as approved by the Executive Director.
- q) “Lottery Gaming Facility Revenues” means the total revenues from the play of Lottery Facility Games operated at the Lottery Gaming Facility after all related Prizes are paid. This term does not include (i) money generated from Ancillary Lottery Gaming Facility Operations (to which the Kansas Lottery has no financial interest) even if the revenue is generated within the Lottery Gaming Facility or (ii) Promotional Credit(s).
- r) “Player” means a person who: (1) takes part in a Lottery Facility Game by paying consideration or using Promotional Credit for the chance of winning a Prize; and (2) is lawfully eligible to play a Lottery Facility Game under the Kansas Expanded Lottery Act or applicable rules and regulations.
- s) “Progressive Electronic Game” means a game played on one or more Electronic Gaming Machines for which at least one payoff increases uniformly as the game is played and the Prize is determined by application of a formula to the income of independent, local, or interlinked Electronic Gaming Machines.
- t) “Promotional Credit” means any non-cashable credit, coupon or voucher redeemable by a Player at a Lottery Gaming Facility for use in playing Lottery Facility Games that is provided to a Player by Manager on a discretionary basis for purposes of promoting the Lottery Gaming Facility in accordance with a promotional program approved by the Executive Director.
- u) “Promotional Item” means any non-cash, complimentary service or discount provided to a Player by Manager on a discretionary basis for purposes of promoting the Lottery Gaming Facility in accordance with a promotional program approved by the Executive Director.
- v) “Prize” means any money, cash, tokens, merchandise, or credits redeemable for cash or play in a Lottery Facility Game that a Player may be entitled to as an award for playing a Lottery Facility Game under the rules of that game. For any Electronic Gaming Machines offering progressive winnings to a Player based on the use of Electronic Gaming Machines in a Progressive Electronic Game, “Prize” also includes a percentage of every wager played on a Progressive Electronic Game that is contributed to a growing jackpot amount to a successful Player as an award for playing an Electronic Gaming Machine under the rules of that Progressive Electronic Game, but does not include the reset amount. “Prize” does not include any administrative fees or other expenses associated with an Electronic Gaming Machine’s acquisition, operation, maintenance or replacement that are not payable to a winning Player.

2. **Date Agreement Becomes Binding.** This Agreement will become effective and binding on the Effective Date; except that the parties agree that Paragraphs 2, 8, 20, 28, 30, 31, 54, 57, 58, 60, 66, 70, 71 and 72 will become effective and binding on the parties immediately upon this Agreement's approval by the Commission.

3. **Term of Agreement.** This Agreement will terminate fifteen (15) years after the Commencement Date or by operation of law, unless this Agreement is terminated earlier, renegotiated, or renewed, in accordance with the terms set out below.

4. **Commencement Date Deadline.** The Commencement Date will occur no later than 13 months after the Effective Date. This deadline will be extended by the number of days determined by the Executive Director that Manager is unable to perform its responsibilities under this Agreement due to:

- a) Court order restricting the authority of the Commission or the Kansas Lottery to own and operate Lottery Facility Games at the Lottery Gaming Facility under the Kansas Expanded Lottery Act or under this Agreement, or enjoining Manager from performing under this Agreement;
- b) Any force majeure cause as provided in Paragraph 63;
- c) Any other reason determined by the Executive Director in his sole discretion that adversely impacted Manager's ability to perform; or
- d) Any delay, not caused or enhanced by Manager, in Manager securing any and all licenses, credentials, permits and approvals necessary to construct and operate the lottery Gaming Enterprise, or any aspect thereof, provided that Manager shall have made timely application for such permits and approvals, and shall have diligently prosecuted the same.

5. **Renewal of Agreement.** Prior to the expiration of this Agreement but not before completion of the minimum infrastructure investment and provided Manager has maintained the Lottery Gaming Facility in accordance with the terms of the Lottery Facility Management Contract, as certified by the Executive Director, Manager or the Kansas Lottery may request to negotiate renewal of this Agreement under K.S.A. 2008 Supp. 74-8734(h)(1) for the maximum extended term allowed under the law. If prior to the expiration of this Agreement the parties do not renew this Agreement as provided herein, the parties shall enter into good faith negotiations for a new lottery gaming facility management contract consistent with and on substantially the same terms as this Agreement, as provided in K.S.A. 2008 Supp. 74-8734(p). The parties shall negotiate in good faith and in the event the parties are unable to agree the Kansas Lottery shall proceed in accordance with any options available to it under the Kansas Expanded Lottery Act, in existence at that time. Nothing in this Agreement is intended to be interpreted to restrict or to be prejudicial to any right or remedy Manager may have at law or equity to compel the Lottery to comply with the provisions of this Section 5.

6. **Manager's Representations and Warranties.** Manager represents and warrants to the Kansas Lottery as follows:

- a) Manager is a limited liability company in good standing under the laws of the State of Kansas, and is duly qualified to do business as such in Kansas.
- b) Manager has full power, authority, and legal right to perform and observe the provisions in this Agreement, the requirements imposed by the Kansas Expanded Lottery Act, the rules and regulations imposed by the Commission, and the rules and regulations imposed by the Kansas Racing and Gaming Commission.
- c) Subject to the condition that all approvals required by the Kansas Expanded Lottery Act are obtained, this Agreement constitutes a valid and binding obligation on Manager that is fully enforceable in accordance with its terms, and does not constitute a breach of, or default under, any other agreement to which Manager is a party or any of its assets are bound or affected.
- d) During this Agreement's term, Manager will, at its own expense, keep in full force and affect its legal existence, rights and franchises required in order for it to observe all of this Agreement's terms and conditions. Upon receiving any information or notice contrary to the representations contained in this subsection during this Agreement's term, Manager must immediately notify the Executive Director in writing with full details regarding the same.
- e) Manager has acquired fee title or the ability to acquire fee title to the premises on which the Lottery Gaming Facility will be located, free and clear of any liens, encumbrances, covenants, charges, burdens or claims, except (i) those which do not materially and adversely affect the use by Manager of the premises as a Lottery Gaming Enterprise, and (ii) any secured liens directly related to the Lottery Gaming Enterprise, which will be disclosed to the Executive Director concurrently with Manager's acquisition of the property or for which the Executive Director's prior approval has been obtained.
- f) The Lottery Gaming Enterprise and the operations thereof at all times will conform in all material respects with all applicable material zoning, planning, building, licensing, and environmental laws and regulations of governmental authorities (federal, state, or local) having jurisdiction over the Lottery Gaming Enterprise, including any amendments to such laws or regulations occurring after this Agreement's execution. Such laws include, but are not limited to, the federal Money Laundering Control Act of 1986, the Bank Secrecy Act of 1970, and the USA Patriot Act of 2001, and amendments thereto. The Manager shall defend, indemnify and hold the Kansas Lottery and the State of Kansas and all employees of the Kansas Lottery and the State of Kansas harmless from any liability or expenses resulting from any failure by the Manager to comply with the provisions of this subsection (f).
- g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the

Manager, threatened against or affecting the Manager or its principals, and in which an adverse result would in any way diminish or adversely impact the Manager's ability to fulfill its obligations under this Lottery Gaming Facility Management Contract. No revenue bonds, state tax abatement, local tax abatement, tax increment financing or similar financing will be used to finance or will be applied to any part of Manager's Lottery Gaming Enterprise.

- h) The Lottery Gaming Enterprise will comply in all material respects with all environmental laws and regulations, and, except in material compliance with environmental laws and regulations agrees that to the best of its knowledge (1) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist at the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations, except in compliance with all applicable laws; (2) Manager will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations or onto any other property; (3) that no asbestos will be incorporated into or disposed of on the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations; (4) that no underground storage tanks will be located on the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations, except as approved by the Executive Director; and (5) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence with respect to the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations. Upon receiving any information or notice contrary to the representations contained in this subsection, Manager must promptly notify the Executive Director in writing with full details regarding the same. Manager and its principals have executed the Environmental Compliance Agreement attached as Exhibit A. Manager shall defend, indemnify and hold the Kansas Lottery and the State of Kansas harmless from any liability or expenses resulting from any failure by Manager to comply with the provisions of this subsection (h).
- i) Manager will provide to the Executive Director a certificate or certificates of insurance containing all of the insurance provision requirements provided in this Agreement as follows: as respects the builder's risk and liability including worker's compensation covering construction activities, prior to the commencement of construction activities, and as respects all other insurance, prior to the commencement of any operations presenting an insurable risk. Each insurance policy obtained by Manager to comply with the insurance provision requirements must provide that if the insurance is canceled for any reason whatsoever, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Kansas Lottery or the State of Kansas until at least thirty (30) days after receipt by the Executive Director of written notice by the insurer of such cancellation, lapse, expiration, reduction or change.
- j) Manager will comply with all rules, regulations or policies imposed by the Kansas Racing and Gaming Commission now or in the future for the oversight of all

operations at the Lottery Gaming Facility including, but not limited to: oversight of internal controls; adherence to technical standards adopted by the Kansas Racing and Gaming Commission; oversight of security; performance of background investigations; determinations of qualifications and any required certifications, credentialing or licensing of Manager's officers, directors, board members, employees, contractors and agents; auditing of Lottery Gaming Facility Revenues; maintenance and integrity of all Lottery Facility Games approved by the Executive Director for play at the Lottery Gaming Facility; maintenance of facility exclusion lists; player tracking, rewards, clubs, coupons or other incentive programs; oversight of progressive payout systems and programs; oversight of unclaimed winnings; oversight of lost patron monies; or responsible gaming. Manager understands and agrees that failure to adhere to the Kansas Racing and Gaming Commission's rules, regulations, or technical standards may result in the imposition of fines, or other sanctions or penalties against Manager. Upon receiving any information or notice claiming a violation of any requirement of the Kansas Racing and Gaming Commission or any other governmental entity with jurisdiction over gaming-related activities after the Effective Date, Manager must immediately notify the Executive Director in writing with full details regarding the same.

- k) Manager, at a minimum, meets and will continue to meet the following criteria: (1) has sufficient access to financial resources to support the activities required of it by this Agreement and the Kansas Expanded Lottery Act; (2) is current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas and any taxing subdivisions where the Manager is located in the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and (3) Manager or its direct or indirect principals, affiliates or officers and/or members have at least three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law.
- l) Manager will comply with all applicable rules and regulations imposed now, or in the future, by the Kansas Lottery.
- m) Except as may be authorized by applicable law and confirmed in writing by the Executive Director, Manager will not own, lease, license, or control the rights to: (1) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device required to operate the games available for play on the Lottery Facility Games, (2) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device containing information regarding or affecting an Lottery Facility Game's chance of winning, awarding of Prizes, or setting the consideration paid by a Player, such as the random number generator or payout tables; (3) any CPUs or other electronic components involved in the operation and calculation or display of game play (e.g., game controller electronics and components housing the game or system firmware program storage media or EPROMS); or (4) any communication controller electronics, and components housing the communication control program that is used for communicating financial data, program information and security events to the central



computer authorized by the Executive Director for purposes of security, real-time monitoring and auditing, as well as ticket validation and any other system used that affects the integrity of the Lottery Facility Games made available at the Lottery Gaming Facility.

- n) Manager acknowledges and agrees the State of Kansas, acting through the Commission and the Kansas Lottery, pursuant to their statutory authority, has the sole right to own, lease and operate the Lottery Facility Games placed at the Lottery Gaming Facility and has the full, complete and ultimate ownership and operational control of the gaming operation of the Lottery Gaming Facility. Manager further acknowledges and agrees the Kansas Lottery explicitly retains the power to overrule any action of Manager affecting the gaming operation without prior notice and the Kansas Lottery retains full control over all decisions concerning Lottery Facility Games. No Gray Machines will be permitted at the Lottery Gaming Facility.
- o) Manager, on behalf of the Kansas Lottery, will be responsible at all times for processing payment of all Prizes and matters relating thereto, including the withholding of income taxes and reporting of Prizes in accordance with all applicable laws and regulations.
- p) Manager has a required resolution of endorsement from the City of Mulvane and/or the Sumner County Board of County Commissioners, which is attached as Exhibit B.
- q) The undersigned is duly authorized to execute and deliver this Lottery Gaming Facility Management Contract on behalf of Manager.

7. **The Kansas Lottery's Representations and Warranties.** The Kansas Lottery represents and warrants to Manager as follows:

- a) The Kansas Lottery is duly established under the Kansas Lottery Act and the Kansas Expanded Lottery Act, and has the power to enter into the transactions contemplated by this Lottery Gaming Facility Management Contract and to carry out its obligations. Based upon the representations of Manager as to the utilization of the Lottery Gaming Facility, the Kansas Lottery has the authority to take the actions contemplated by applicable statute.
- b) The Executive Director is duly authorized to execute and deliver this Lottery Gaming Facility Management Contract.
- c) Neither the execution and delivery of this Lottery Gaming Facility Management Contract, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any other contract to which the Commission or Kansas Lottery is a party or by which either is bound, or will constitute default under any of the foregoing.

8. **Kansas Expanded Lottery Act Litigation.** Manager acknowledges it enters into this Agreement with the understanding that the Kansas Expanded Lottery Act and/or the implementation

of that Act by the Kansas Lottery or the Commission, may come under review by courts of competent jurisdiction from time to time during this Agreement's term. Manager agrees it will proceed with its responsibilities under this Agreement at its own risk as to the Kansas Expanded Lottery Act's validity, or the validity of the implementation of that Act by any state agency, except that nothing in this section will be interpreted to restrict, waive or delete any rights Manager may have to seek repayment of Managers' privilege fee if the Kansas Expanded Lottery Act were to be amended or repealed by a legislative body or declared unconstitutional in a future proceeding. At the time of the execution of this Agreement, anything contained in this Agreement notwithstanding, Kansas Lottery hereby represents and warrants, to the knowledge of Kansas Lottery, that there is no action, suit, proceeding, at law or in equity, before or by any court, public board or body, naming the Kansas Lottery as a party, arising out of or in connection with the Kansas Expanded Lottery Act (including constitutionality and the applicant contracting process.) In the event litigation is commenced, against Manager or the Kansas Lottery, arising out of or in connection with the Kansas Expanded Lottery Act (including constitutionality, implementation, and the applicant contracting process) related to this Agreement and requesting relief in the form of an injunction or termination of this Agreement or the invalidation of the Kansas Expanded Lottery Act, and the Plaintiff's constitutional claims are successful through trial court rulings on motions for summary judgment, Manager may suspend construction, if not yet complete, until receipt of an order, at the trial level or on appeal, upholding the Kansas Expanded Lottery Act or its implementation as applied to this Agreement.

**9. Required Approvals Prior to this Agreement Becoming Effective.** Subject to the terms of Paragraph 2, this Agreement will not become effective until it is approved, as required by the Kansas Expanded Lottery Act, by all three of the following public entities: (a) the Commission; (b) the Lottery Gaming Facility Review Board; and (c) the Kansas Racing and Gaming Commission.

**10. Conditions Precedent to Lottery Gaming Facility Opening.** Prior to permitting initial public access to the Lottery Gaming Facility, Manager must (as and when applicable):

- a) Be in compliance with all statutory requirements imposed by the Kansas Expanded Lottery Act, as amended, for placing Lottery Facility Games at the Lottery Gaming Facility.
- b) Be in compliance with all rules and regulations, written policies, or written standards imposed by the Kansas Lottery Commission for placing Lottery Facility Games at the Lottery Gaming Facility.
- c) Be in compliance with all rules and regulations, licensing requirements, written policies, or written standards imposed by the Kansas Racing and Gaming Commission for placing Lottery Facility Games at the Lottery Gaming Facility.
- d) Have in an operational condition Manager's portion of the central communication system specified by the Executive Director for the purposes of security, monitoring and auditing of Electronic Gaming Machines placed at the Lottery Gaming Facility.
- e) Have current written approvals from the Executive Director for all Lottery Gaming Facility activities as required by this Agreement.

- f) Be in compliance with all material local zoning requirements applicable to the Lottery Gaming Facility.
- g) Have delivered to the Secretary of State, with a copy to Executive Director, Manager's irrevocable consent to the jurisdiction and courts of the State of Kansas in accordance with K.S.A. 2008 Supp. 74-8755.
- h) Obtain and maintain all necessary governmental permits and licenses/certifications when and as may be required by law in connection with the operation of the Lottery Gaming Facility.
- i) Be in compliance with all other requirements in this Agreement as and when applicable.

11. **Manager's Business Plan.** The Executive Director and Manager will jointly develop a Business Plan, which will be based upon and not inconsistent with Manager's Application for Lottery Gaming Facility Manager, promptly after the Effective Date. This Business Plan will provide in reasonable detail for the Lottery Gaming Facility's pre-opening activities in preparation for operation after the Commencement Date, hours of operation with 24 hour operations seven days a week being permitted by the Executive Director, advertising, marketing, public relations, number and type of Lottery Facility Games to be available to the public, process for selection of such games, Prizes, theoretical hold percentages, budget, Promotional Credits and procedures for controlling and accounting for the use of Promotional Credits, Promotional Items and procedures for controlling and accounting for the use of Promotional Items, special events or activities planned or anticipated by Manager during the period of time covered by the Business Plan, and other management activities to be performed by Manager consistent with the Kansas Expanded Lottery Act and applicable law that either the Manager or the Executive Director wants to address in the Business Plan. Once approved by the Executive Director, Manager will implement the approved Business Plan in all material respects. The Executive Director, in consultation with Manager, may amend the Business Plan from time to time to promote the Lottery Gaming Facility's competitive position in the market in order to enhance, to the extent profitable to Manager, Lottery Gaming Facility Revenues. At any time, Manager may propose to the Executive Director for his approval any amendments to the Business Plan. The initial Business Plan will include Manager's proposed name for the Lottery Gaming Facility, which must be approved by the Executive Director. Any subsequent change to the facility's name must be approved by the Executive Director. The Manager and Executive Director will make a good faith effort to complete the initial Business Plan and Budget by the Effective Date.

12. **Ancillary Lottery Gaming Facility Operations.** At the same time that Manager and the Executive Director develop a proposed Business Plan for the Lottery Gaming Facility, Manager separately will provide the Executive Director with Manager's anticipated business plan and budget for all Ancillary Lottery Gaming Facilities Operations that Manager anticipates developing in conjunction with the Lottery Gaming Facility, such as restaurants, hotels, motels or entertainment facilities. Manager agrees not to conduct any Ancillary Lottery Gaming Facility Operations that the Executive Director determines would: (a) result in an appearance that reflects adversely on the Kansas Lottery or the Kansas Lottery Commission as the owner and operator of the Lottery Facility Games; or (b) violate any regulatory standards or local zoning laws.

13. **Lottery Gaming Facility Construction.** Manager will diligently construct at its own expense the Lottery Gaming Facility substantially in accordance with Manager's Application for Lottery Gaming Facility Manager, Exhibit C to this Agreement, and the plans and specifications. Prior to beginning construction, the Executive Director must approve the final plans and specifications for the Lottery Gaming Facility (or in lieu thereof such other construction-related documents acceptable to the Executive Director that are suitable for this purpose) to ensure construction will conform with the Manager's Application for Lottery Gaming Facility Manager, Exhibit C to this Agreement, and Manager's representation to the Kansas Lottery Commission, Lottery Gaming Facility Review Board, the Kansas Racing and Gaming Commission, or the governing body of the city or county where the Lottery Gaming Facility is to be located, provided however, that Manager cannot be held in breach of this paragraph for any oral statements, representations or obligations without being first presented with a copy of the actual recording and/or verified court reporter transcript of the Manager's actual statement(s) alleged to create such representation and/or obligations. With the approval of the Executive Director, Manager retains the option, but is not obligated, to construct a temporary Lottery Gaming Facility under the terms of this Agreement and the Kansas Expanded Lottery Act. Subject to Exhibit C, all construction of the temporary Lottery Gaming Facility must be completed and the Lottery Facility Games ready for play by the public within that facility no later than 13 months after the Effective Date and the Lottery Gaming Facility must be completed and ready for play no later than 24 months after the Effective Date, unless a time extension is approved by the Executive Director. The schedule setting out Manager's anticipated benchmarks for construction completion is attached as Exhibit C. For each month between the Effective Date and the Commencement Date, Manager will report no less than monthly as directed by the Executive Director on Manager's progress toward completing construction, implementing the Business Plan, and opening the Lottery Gaming Facility to the public. No material alterations to the scope and design of the plan for the Lottery Gaming Facility increasing or decreasing the total costs by more than four percent (4%) of the total cost provided for in Manager's Application for Lottery Gaming Facility Manager may be made without the Executive Director's written approval unless such change materially affects the floor plan, surveillance, or security for the Lottery Gaming Facility in which case the Executive Director's approval is required for any material change regardless of the dollar amount. The Executive Director will promptly notify Manager of his approval or rejection of any proposed change. Manager will not need to obtain the Executive Director's approval for expenditures covered by the Manager's contingency budget.

14. **Construction Related to Ancillary Lottery Gaming Facilities Operations.** Manager, at its sole cost and expense, must diligently construct the buildings and related improvements for its Ancillary Lottery Gaming Facility Operations substantially in accordance with Manager's Application for Lottery Gaming Facility Manager, Exhibit C, and Manager's representations to the Kansas Lottery Commission, Lottery Gaming Facility Review Board, the Kansas Racing and Gaming Commission, or the governing body of the city or county where the Lottery Gaming Facility is to be located, provided however, that Manager cannot be held in breach of this paragraph for any oral statements, representations or obligations without being first presented with a copy of the actual recording and/or verified court reporter transcript of the Manager's actual statement(s) alleged to create such representation and/or obligations. In addition to any other remedy available to the Executive Director under this Agreement, solely with respect to this Paragraph 14, Manager's failure to substantially perform its Ancillary Lottery Gaming Facility Operations obligations according to objectively verifiable standards (for example, if the plans provide for the building of a restaurant and the restaurant is not built) and, provided such failure cannot be disputed in good faith, will authorize the Executive Director to withhold payment of Manager's compensation

for which it would otherwise be entitled under Paragraph 26, less such amounts necessary for Manager to meet all cash operating payments, obligations and liabilities payable pursuant to the Budget and debt service payments payable to third-party lenders, after the date that is forty-five (45) days following the Executive Director's written notice to Manager of such failure until the breach is cured. If the Executive Director withholds Manager's compensation as provided in this paragraph, he will deposit the applicable funds in an interest bearing account, which account (to the extent of Manager's interest therein) can be pledged to lender subject to Executive Director's rights therein, until the Executive Director determines the breach is cured, at which time the compensation and interest held by the Executive Director will be promptly returned to Manager. Provided, however, if within 180 days of the date each amount is withheld as provided herein, Manager has not cured such default or has commenced a cure for such default but is not prosecuting the same to completion, the Kansas Lottery shall be entitled to retain each amount and interest so withheld.

15. **Manager's Construction-Related Responsibilities.** Manager will be responsible for the management, construction, and all aspects of construction-related activities concerning the Lottery Gaming Facility and the buildings and related improvements for its Ancillary Lottery Gaming Facility Operations. These responsibilities include, but are not necessarily limited to, the following:

- a) The direction of all construction activities;
- b) The direction and coordination of the performance of the architect, the other consultants and contractors;
- c) Causing all construction activities to be carried out in a good and workmanlike manner, all in substantial compliance with the Manager's Application for Lottery Gaming Facility Manager;
- d) Preparing the Lottery Gaming Facility to accommodate the central communication system as required by the Executive Director in accordance with the vendor contract for that central communication system, including installation of all specified power and communication services;
- e) Correcting or remedying or causing to be corrected or remedied, any violations of applicable law;
- f) Arranging for the preparation of all working drawings and specifications;
- g) Preparing or arranging for the preparation of all construction contracts and arranging for the preparation and execution of all other related documentation required in accordance with the development obligations undertaken by Manager;
- h) Securing financing, if necessary, including mortgage liens on the real property and improvements and liens on personal property, for the construction of the Lottery Gaming Facility or the building and improvements related to the Ancillary Gaming Facility Operations, including completing the necessary documentation therefor;

- i) Maintaining appropriate cost-accounting records in accordance with generally accepted accounting principles;
- j) Obtaining all necessary government approvals, consents, permits, and licenses/certifications;
- k) Providing legal support related to the development and construction responsibilities undertaken by Manager; and
- l) Ensuring all required insurance is maintained in force.
- m) Provide information to any representative of the Kansas Lottery relating to costs and/or completion of work, including information related to Manager's compliance with its minimum investment in infrastructure requirements, budgets are adhered to in accordance with this Agreement and that Manager's application and representations described in paragraphs 13 and 14 are being met, including periodic site inspections. An independent representative may be hired by the Kansas Lottery to verify such investment. Manager shall reimburse the Kansas Lottery for all expenses reasonably incurred for or by such representative in the sum not to exceed \$7,500.00 per month.

16. **Exclusive Use of Lottery Gaming Facility.** The Lottery Gaming Facility will be used exclusively for the playing of Lottery Facility Games owned and operated by the Kansas Lottery, and the ancillary management activities approved by the Executive Director, which may include, but are not limited to, beverage service, food service, entertainment, retail, promotional, and ATM facilities. Manager may not permit any other business activities within the Lottery Gaming Facility without the prior written consent of the Executive Director.

17. **Approval of Manager's Floor Plan.** Prior to opening the Lottery Gaming Facility, Manager must submit its proposed floor plan to the Executive Director for approval. This floor plan must show the location of all Lottery Facility Games, count rooms, cages and other equipment and facilities to be contained within the Lottery Gaming Facility. No material change affecting surveillance or security, or any other material aspect of operations may be made to the approved floor plan without the Executive Director's prior written approval. Manager must perform its duties in accordance with the floor plan approved by the Executive Director, except to the extent necessary for Manager to implement pre-approved changes to the plan. The Executive Director, after consultation with Manager, will determine the location within the floor plan for each game, or type of game, to be offered to the public at the Lottery Gaming Facility. The Manager may, in cooperation with the Executive Director, locate or relocate Electronic Gaming Machines within the boundaries/areas initially designated for Electronic Gaming Machines to enhance Lottery Gaming Facility Revenues and profits after providing notice to the Executive Director. The Executive Director shall review any proposed change to the Floor Plan for location of Lottery Games and shall render a decision within 3 business days.

18. **Approval of Manager's Surveillance Plan.** Prior to opening the Lottery Gaming Facility, Manager must submit its proposed surveillance plan to the Executive Director for approval. This surveillance plan at a minimum must contain all items required by applicable rule and regulation. No material change to the approved surveillance plan may be made without the Executive

Director's prior written approval. Manager must perform its duties in accordance with the surveillance plan approved by the Executive Director, except to the extent necessary for Manager to implement pre-approved changes to the plan.

19. **Approval of Manager's Security Plan.** Prior to opening the Lottery Gaming Facility, Manager must submit its proposed policies and procedures relating to security to the Executive Director for approval. This security plan at a minimum must contain all items required by applicable rule and regulation. No material change to the approved security plan may be made without the Executive Director's prior written approval. Manager must perform its duties in accordance with the security plan approved by the Executive Director, except to the extent necessary for Manager to implement pre-approved changes to the plan.

20. **Privilege Fee Payment.** No later than thirty (30) days after the Commission approves this Agreement, Manager must pay to the state treasurer of the State of Kansas a privilege fee of \$25 million. This payment to the state treasurer will be deposited into the state treasury and credited to the Lottery Gaming Facility Manager Fund, which is a temporary fund created pursuant to the Kansas Expanded Lottery Act. Notwithstanding any other provision in this Agreement, if Manager fails to pay this privilege fee within 30 days after the Commission's approval, this Agreement will be void and Manager will forfeit any rights it may have to be a Lottery Gaming Facility Manager under the Kansas Expanded Lottery Act. Once all required approvals for this Agreement are obtained in accordance with the Kansas Expanded Lottery Act, the Manager's privilege fee will be transferred from the Lottery Gaming Facility Manager Fund to the Expanded Lottery Act Revenues Fund as provided by law. If (a) the required approvals for this Agreement are not obtained in accordance with the Kansas Expanded Lottery Act or (b) if Manager withdraws its application to be Lottery Gaming Facility Manager in the South Central Gaming Zone prior to approval of the Kansas Racing and Gaming Commission, the Executive Director will promptly direct the state treasurer to refund, without interest, Manager's privilege fee payment. Nothing in this Agreement will be interpreted to restrict or to be prejudicial to any right or remedy Manager may have at law or equity (i) to compel the Executive Director to make any direction to the state treasurer as provided in this paragraph 20, (ii) if the state treasurer fails to comply with such direction, to compel the state treasurer to refund Manager's privilege fee, or (iii) to exercise any other right Manager may have under this Agreement or at law or equity to a refund of the privilege fee.

21. **Lottery Facility Game Ownership.** The Manager must purchase or lease, on behalf of the State of Kansas, for the Kansas Lottery all Lottery Facility Games, including all necessary equipment such as approved tables, felt, dice, cards, chips, layouts, or intellectual property rights as determined by the Executive Director. Manager has no authority under this Agreement to own, purchase or lease any Lottery Facility Games, except on behalf of the State of Kansas and through the Kansas Lottery. Notwithstanding the foregoing or anything to the contrary in this Agreement, the Manager shall be entitled to all depreciation or amortization deductions related to the Lottery Facility Games. The Executive Director, in consultation with Manager, will select the Lottery Facility Games to be offered for play at the Lottery Gaming Facility and determine the Prizes to be awarded for the play of such games. The Executive Director will determine and approve all rules of play and gaming policies that are applicable to the play of all Lottery Facility Games offered at the Lottery Gaming Facility. Subject to the prior approval of the Executive Director, Manager may purchase, lease, sell, transfer and trade-in the Lottery Facility Games at the Lottery Gaming Facility on behalf of the State of Kansas. Notwithstanding the foregoing, Manager may grant a security interest in all Lottery Facility Games arising in connection with the financing and/or lease of same. So long as Manager

complies with its duties to the Kansas Lottery under this Agreement and the Kansas Expanded Lottery Act, the Kansas Lottery agrees that the Manager may manage the Lottery Gaming Facility and its investment in the Lottery Gaming Facility in a manner that maximizes its profitability.

22. **Control Software Licensing and Ownership.** The Kansas Lottery will be the licensee, owner and possessor of the right to use all control software and logic chips required to operate the games available on the Lottery Facility Games at the Lottery Gaming Facility. This includes: (a) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device required to operate the games available for play on the Lottery Facility Games, (b) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device containing information regarding or affecting a Lottery Facility Game's chance of winning, awarding of prizes, or setting the consideration paid by a Player, such as the random number generator or payout tables; (c) CPUs and other electronic components involved in the operation and calculation or display of game play (e.g., game controller electronics and components housing the game or system firmware program storage media or EPROMS); or (d) communication controller electronics, and components housing the communication control program that is used for communicating financial data, program information and security events to the central computer authorized by the Executive Director for purposes of security, real-time monitoring and auditing, as well as ticket validation and any other system used that affects the integrity of the Lottery Facility Games made available to Players at the Lottery Gaming Facility. Manager will transfer to the Kansas Lottery any rights obtained by Manager to use all control software and logic chips required to operate the games available on the Lottery Facility Games available to Players at the Lottery Gaming Facility. The Executive Director must approve all agreements concerning software licensing and ownership affecting the Lottery Facility Games made available to Players at the Lottery Gaming Facility in a timely manner.

23. **Daily Electronic Payment of Lottery Gaming Facility Revenues.** Manager must pay all Lottery Gaming Facility Revenues daily to the Executive Director as provided by applicable regulation. Manager will make this payment electronically in accordance with the Executive Director's written instructions, which will conform to necessary banking practices. These instructions may be changed from time to time in the Executive Director's sole discretion with reasonable notice to Manager. The Executive Director, in consultation with Manager, will develop a process so that Manager may audit and reconcile Lottery Gaming Facility Revenues after the daily payments are made. Notwithstanding any other provision in this Agreement, Manager's failure to make a daily electronic payment of Lottery Gaming Facility Revenues as required by this Agreement will be deemed an event of default unless the payment cannot be achieved due to the unavailability of bank services, force majeure events, or malfunctions in the central communications system not within Manager's control in which case the payment must be made on the first succeeding day that such services are available or such events or malfunctions cease. If Manager fails to comply with this paragraph, the Executive Director may, but is not required to, immediately terminate this Agreement if Manager does not cure its failure within 24 hours of receiving written notice of Manager's failure to comply, provided that Manager's failure to make the required daily payment is not intentional.

24. **Payment Obligation is Unconditional.** Manager's obligation to make the daily payments of all Lottery Gaming Facility Revenues required above is a general obligation of Manager and is absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim Manager may otherwise have against the Commission, the Kansas Lottery, or any



agency of the State of Kansas. Manager agrees it will not suspend, discontinue or abate any daily payment required above for any cause whatsoever including, without limiting the generality of the foregoing, failure of consideration, destruction of or damage to the Lottery Gaming Facility, commercial frustration of purpose, any change in the tax or other laws, any administrative rulings of or administrative actions by the State of Kansas or any political subdivision thereof, or any failure by any agency or entity acting on behalf of the State of Kansas to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lottery Gaming Facility Management Contract, or otherwise. Subject to the foregoing provisions, nothing contained in this paragraph shall be construed to release the Kansas Lottery from the performance of any of the agreements on its part contained in this Lottery Gaming Facility Management Contract or to affect Manager's right to seek reimbursement or damages from the Kansas Lottery as provided in this Agreement. Manager must not grant, authorize or permit any interest in the Lottery Gaming Facility Revenues that are to be remitted daily to the State to be given to anyone.

25. **Setoff Right Against Manager.** Any amounts owed to Manager under this Agreement are subject to set off by the state, municipalities, or certain others in accordance with K.S.A. 75-6201, *et seq.*, and amendments thereto.

26. **Total Compensation Paid to Lottery Gaming Facility Manager.** As its sole compensation for the management services for the Lottery Gaming Facility as set out in this Agreement, Manager will be paid the following percentages of the Lottery Gaming Facility Revenues generated at the Lottery Gaming Facility calculated with respect to the then current Fiscal Year, as follows: (a) 73% of all Lottery Gaming Facility Revenues up to \$180 million; (b) 71% on all Lottery Gaming Facility Revenues above \$180 million up to \$220 million; and (c) 69% on all Lottery Gaming Facility Revenues above \$220 million.

The Executive Director shall cause this payment to Manager on no less than a monthly basis, in arrears, in immediately available funds by electronic transfer into a bank account specified by Manager, which account may be changed from time to time in Manager's sole discretion upon reasonable written notice to the Kansas Lottery, based on the previous period's Lottery Gaming Facility Revenues. Before paying the Manager, the Executive Director may first deduct Manager's share of Kansas Lottery expenses and share of Kansas Racing and Gaming Commission expenses incurred for oversight and regulation as provided in Paragraph 28 below, or the Manager may be billed for those expenses as the Executive Director may direct. Manager may pledge, encumber or grant any interest in the compensation to be paid Manager, subject to the deductions and setoffs provided for in this Agreement and subject further to the Executive Director's authority under Paragraph 14.

27. **Payments to Problem Gaming and Addictions Grant Fund and Local Governments.** Manager acknowledges and agrees the Executive Director will cause two percent (2%) of Lottery Gaming Facility Revenues to be paid to the problem gaming and addictions grant fund established by K.S.A. 2008 Supp. 79-4805, and amendments thereto. Manager further acknowledges and agrees the Executive Director will cause three percent (3%) of the Lottery Gaming Facility Revenues to be paid to the city and/or counties in compliance with K.S.A. 2008 Supp. 74-8734(h)(16), and amendments thereto. It is hereby acknowledged and agreed that such payments shall not be paid from the compensation payable to Manager pursuant to paragraph 26.

28. **Manager's Payments for Kansas Lottery's Expenses and Kansas Racing and Gaming Commission's Costs for Oversight and Regulation.** Manager must pay the expenses of the Kansas Lottery and the Kansas Racing and Gaming Commission, as follows:

- a) Manager's share of the Kansas Lottery's expenses directly attributable to Manager and the Kansas Lottery's proportionate share of other expenses incurred for the implementation and operation of the Kansas Expanded Lottery Act and this Agreement will be paid in accordance with this sub-paragraph (a). Expenses incurred by the Kansas Lottery will be billed directly to Manager by the Kansas Lottery within thirty (30) days of the Commission's approval of this Agreement and must be paid by Manager within thirty (30) days of billing. Thereafter, and prior to the Commencement Date, the Executive Director will bill Manager periodically for the Kansas Lottery's expenses and Manager will pay such expenses within thirty (30) days of billing. After the Commencement Date, the Executive Director may deduct Manager's share of Kansas Lottery expenses before making Manager's compensation payment 10 days after providing a statement of such expenses as provided above in Paragraph 26. Manager's share of Kansas Lottery expenses will be calculated by taking the costs incurred by the Kansas Lottery that are directly attributed to Manager and Manager's Lottery Gaming Facility, and adding to that amount the Kansas Lottery's common expenses attributable to all racetrack and lottery gaming facility managers as a result of the Kansas Lottery's activities pursuant to the Kansas Expanded Lottery Act, which common expenses will be divided equally among all managers.
- b) All costs incurred by the Kansas Racing and Gaming Commission for its oversight and regulation of Manager and the Lottery Gaming Facility in accordance with the requirements for calculating and paying such costs as determined by the executive director of the Kansas Racing and Gaming Commission. Manager acknowledges and agrees this obligation includes the requirement that Manager pay its *pro rata* share of the anticipated expenses of the Lottery Gaming Facility Review Board, which will be billed to Manager after the Kansas Lottery Commission's approval of this Agreement. If Manager fails to pay these expenses when due, this Agreement may be void, and Manager may forfeit any rights it may have to be a Lottery Gaming Facility Manager under the Kansas Expanded Lottery Act ten (10) days after receiving written notice from the Kansas Racing and Gaming Commission of Manager's failure to timely pay. Manager further acknowledges that the executive director of the Kansas Racing and Gaming Commission may assess each manager, whose agreement is approved by the Lottery Gaming Facility Review Board, a proportionate share of all costs incurred by the Kansas Racing and Gaming Commission since 2007 Senate Bill 66 became effective on April 19, 2007, that are attributable to that agency's responsibilities under the Kansas Expanded Lottery Act.
- c) Manager's share of the expenses incurred for the central computer system, which share will be based proportionately on Lottery Gaming Facility Revenues generated by the Electronic Gaming Machines placed at Manager's Lottery Gaming Facility in comparison to the revenues generated by the Kansas Lottery at Racetrack Gaming Facilities and Lottery Gaming Facilities that are part of the central computer system.

29. **Manager's Maintenance Responsibilities.** Manager must:

- a) Keep the Lottery Gaming Facility and all property and improvements associated with its Ancillary Lottery Gaming Facility Operations in good repair and in a reasonably safe condition;
- b) Make all necessary repairs and replacements to the Lottery Gaming Facility, including maintaining in an operational condition Manager's portion of the central communication system as required by the Executive Director in accordance with the vendor contract for that central communication system, and all property and improvements associated with its Ancillary Lottery Gaming Facility Operations (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen);
- c) Maintain the Lottery Gaming Facility and all property and improvements associated with its Ancillary Lottery Gaming Facility Operations in first class condition, ordinary wear and tear excepted, including, without limitation, interior and exterior cleaning, painting and decorating, replacement of lighting fixtures, wall coverings, floors and floor coverings, furnishings, plumbing, electrical, HVAC and any structural or mechanical repairs and any other maintenance or replacement requirements that may be commercially reasonable.

30. **Prohibitions Applicable to the State.** The Kansas Lottery, acting on behalf of the State of Kansas, agrees by entering into this Agreement that:

- a) Neither the Kansas Lottery nor the State of Kansas will enter into a management contract for, more than four (4) lottery gaming facilities or similar facilities in the four gaming zones outlined in the Kansas Expanded Lottery Act with one Lottery Gaming Facility in each gaming zone;
- b) Neither the Kansas Lottery nor the State of Kansas will designate additional areas of the state where operation of Lottery Gaming Facilities or similar gaming facilities will be authorized, other than those set out in the Kansas Expanded Lottery Act; or
- c) Neither the Kansas Lottery nor the State of Kansas will operate an aggregate of more than 2,800 Electronic Gaming Machines at all pari-mutuel licensee locations.

31. **State Payment for Breach.** Manager will be entitled, as its sole monetary remedy, to payment in an amount equal to the actual privilege fee paid by Manager, plus interest on such amount, compounded annually at the rate of ten percent (10%), if the State of Kansas violates any provision in Paragraph 30 above during the term of this Agreement. The parties acknowledge and agree that nothing in this paragraph will be interpreted to prevent or limit any rights Manager may have to seek specific performance or other equitable relief against the Kansas Lottery or the State of Kansas to enforce the prohibitions contained in Paragraph 30. Nothing in this paragraph will be deemed a waiver of the immunities and protections reserved to the State of Kansas under the Eleventh Amendment to the Constitution of the United States.

32. **Executive Director's On-Site Personnel.** The Executive Director may appoint one or more persons to oversee on-site the Lottery Facility Games at the Lottery Gaming Facility and Manager's performance under this Agreement. Such person(s) will report to the Executive Director, and have such authority as the Executive Director in writing may determine. Such person(s) will oversee operations, observe gaming activities, enforce gaming rules and policies, resolve disputes between Manager and Players, and perform such other tasks as directed by the Executive Director. All determinations made by such persons will be subject to review by the Executive Director, provided that Manager may act and rely upon written and verbal determinations made by the Executive Director's on-site personnel until Manager receives written notice from the Executive Director amending or reversing any such determination.

33. **Deactivation and Possession of Lottery Facility Games.** Upon order of the Executive Director, any or all Lottery Facility Games located at the Lottery Gaming Facility will be subject to immediate deactivation and/or cessation of operation. At any time, the Executive Director will be entitled to physically secure or take possession of any or all Lottery Facility Games and any related equipment necessary to play such games.

34. **Insurance Required.** At the time provided in Paragraph 6(i) above, and at all times thereafter, including without limitation during any period of construction of the Lottery Gaming Facility, Manager must maintain or cause to be maintained insurance against such risks and for such amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

- a) Insurance against loss or damage by fire, lightning, and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Lottery Gaming Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by Manager or an amount not less than the maximum foreseeable loss, as determined by a property insurance carrier provided the policy provides a replacement cost endorsement up to the limit of the policy with customary and reasonable deductibles approved by the Executive Director; or as an alternative to the foregoing, Manager may insure the Lottery Gaming Facility under a blanket insurance policy or policies covering not only the Lottery Gaming Facility but other properties as well, provided a periodic appraisal is performed at intervals determined by the Executive Director and provided to the Executive Director.
- b) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which Manager is required by law to provide, covering loss resulting from injury, sickness, disability or death of Manager's employees who are located at or assigned to the Lottery Gaming Facility.
- c) Commercial General Liability Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$10,000,000 per accident or occurrence on account of personal injury, including death resulting there from, and \$10,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon Manager by any applicable worker's compensation law. These liability

limits may be satisfied by any combination of primary and excess liability policies. The primary general liability insurance may have a self-insured retention and the excess liability policy may have a commercially-reasonable deductible, as determined by the Executive Director. These liability insurance requirements may be satisfied by blanket policies in the aggregate amount of not less than \$10,000,000.

- d) Business interruption insurance against the perils enumerated in subparagraph (a) and in amounts determined by the Executive Director to be appropriate and commercially reasonable to protect both the Kansas Lottery's and Manager's financial interests in the revenue produced by the Lottery Gaming Facility.
- e) Employer's practices liability coverage providing customary coverage for alleged violations of local, state or federal civil rights laws or ordinances, or employment discrimination laws.
- f) Employee Dishonesty Combination Crime coverage in amount sufficient to cover all employees employed by Manager who are, or may be, responsible for handling any Lottery Gaming Facility Revenues or other monies belonging to the Kansas Lottery that come under the Manager's custody or control.

**35. Additional Provisions Regarding Insurance.** In addition to the above, Manager must ensure that:

- a) All insurance required in Paragraph 34 above names the Commission, the Kansas Lottery, and the State of Kansas as named insureds, or additional named insureds. All insurance will be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Manager, but authorized to write such insurance in Kansas. Such insurance may be written with deductible or self-insured retentions approved by the Executive Director in amounts comparable to those on similar policies carried by other companies engaged in the gaming industry for facilities similar in size, character and other respects to the Lottery Gaming Facility. All policies evidencing such insurance must provide for (1) payment of the losses of the Commission, the Kansas Lottery, the State of Kansas, and the Manager as their respective interest may appear, and (2) at least thirty (30) days written notice of the cancellation thereof to the Executive Director and the Manager. Policies referred to in this subparagraph (a) must include both the Kansas Lottery and the Manager as loss payees as their interest may appear.
- b) All certificates of insurance from the insurers that such insurance is in force and effect, must be deposited with the Executive Director on or before the Effective Date, except as provided in paragraph 6(i) above. Prior to expiration of the policy evidenced by said certificates, Manager must furnish the Executive Director with evidence that the policy has been renewed or replaced or is no longer required by this Agreement. Copies of the actual insurance policies will be provided to the Executive Director promptly at his request.
- c) Within one hundred twenty (120) days after the end of each Fiscal Year, the Manager must file with the Executive Director a certificate executed by the Manager to the

effect that the insurance it maintains with respect to the Lottery Gaming Facility complies with this Agreement and that duplicate copies of all policies or certificates were filed with the Executive Director and are in full force and effect.

36. **Kansas Lottery's Right to Pay Insurance, Taxes, or Other Charges.** If Manager fails (a) to pay any tax, assessment or other governmental charge required to be paid and not being formally contested by Manager in an appropriate forum with jurisdiction to hear such contests, or (b) to maintain any insurance required to be maintained, the Executive Director, in his discretion, and following written notice to Manager, may authorize the Kansas Lottery to make payment of such tax, assessment, or other governmental charge or the premium for such insurance. Manager will reimburse the Kansas Lottery for any amount so paid together with interest thereon from the date of payment at twelve percent (12%) per annum. The Kansas Lottery may set off such payments from any money otherwise due Manager.

37. **Lottery Gaming Facility Damage, Destruction or Condemnation.** If the Lottery Gaming Facility is damaged, destroyed or condemned (in whole or in part) at any time during the term of this Agreement, Manager must promptly replace, repair, rebuild, or restore the Lottery Gaming Facility to substantially the same condition and value as an operating entity as existed prior to such damage or destruction, to the extent insurance proceeds are available to cover such costs, with such changes, alterations and modifications as may be desired by Manager and approved by the Executive Director, and may use insurance or condemnation proceeds for all such purposes. If the Lottery Gaming Facility is damaged to an extent that it must be closed for business and Manager elects to rebuild the Lottery Gaming Facility at any point during the term of this Agreement, the term of this Agreement will be tolled until such time repairs and reconstruction of the Lottery Gaming Facility are sufficiently completed so as to allow Lottery Facility Games to be offered for play as determined by the Executive Director. The Kansas Lottery agrees to remit any insurance proceeds it receives as a result of the damage or destruction of the Lottery Gaming Facility or Lottery Facility Games (unless those proceeds are to cover the Kansas Lottery's losses under Sections 23 or 26 of this Agreement) to the Manager for the specific replacement, repair, rebuilding or restoration loss for which the Kansas Lottery received any insurance proceeds. Notwithstanding the foregoing, Manager's obligations to repair or replace the Lottery Gaming Facility or any Ancillary Lottery Gaming Facility Operations shall be limited to the extent of insurance proceeds made available as a result of such damage, casualty or accident. Manager will have no obligation to rebuild the Lottery Gaming Facility if such damage, destruction, or condemnation impacts at least 33% of the Lottery Gaming Facility and occurs within five years prior to the end of this Agreement's term. Manager shall have one hundred-twenty (120) days from the damage or destruction to elect to rebuild. If Manager so elects not to rebuild the Lottery Gaming Facility within the last five years remaining on the term of this Agreement, the term of this Agreement as defined under Section 3 of this Agreement will immediately end and the Kansas Lottery shall have the ability to exercise any rights available to it under the terms of the Kansas Expanded Lottery Act.

38. **Advertising, Marketing, and Promotion.** Manager must use its commercially reasonable efforts to advertise, market, and promote the Lottery Gaming Facility in order to attract the public to the facility and reasonably enhance to the extent profitable to Manager Lottery Gaming Facility Revenues. Manager must comply with all applicable regulatory requirements imposed for such materials and activities. All advertising, marketing and promotion materials employed by Manager must be approved by the Executive Director prior to their first use. The Executive Director shall review all such materials within two (2) business days. Manager agrees that such materials may

be disapproved if the Executive Director determines in his sole discretion that such materials would reasonably be expected to offend a substantial number of people (for reasons other than objections to lotteries or gaming activities generally), or violate any regulatory standards applicable to such materials. In addition, Manager must make available to the public the odds of winning any prize or prizes for games played on all Lottery Facility Games offered at the Lottery Gaming Facility to the extent possible given the nature of such games and subject to the Executive Director's approval. Advertising, marketing and promotion materials shall include information regarding problem gambling as directed by the Executive Director. Subject to the approval of the Executive Director, Manager may also include the Lottery Gaming Facility in marketing programs which benefit other properties of Manager and its affiliates.

39. **Players' Club.** The Executive Director may institute a Player's club or similar incentive or promotional program applicable to some or all Racetrack Gaming Facilities or Lottery Gaming Facilities owned and operated by the Kansas Lottery. If the Executive Director institutes a Player's club, the Executive Director agrees that: (a) Manager will have no direct or indirect responsibility to fund such a program or otherwise have any financial liability for such program; (b) Manager will not be required to provide the Executive Director with any customer data under Manager's control for purposes of a Player's club instituted by the Executive Director; (c) the Executive Director will not institute an incentive or awards programs in such Player's club that is applicable to another Racetrack Gaming Facility or Lottery Gaming Facility without also making it available to Manager for use at the Lottery Gaming Facility; and, (d) the Executive Director shall reimburse Manager for any direct costs or indirect costs documented to and preapproved by the Executive Director incurred by Manager or the Lottery Gaming Enterprise as a result of the implementation, operation or maintenance of such Player's club or program. As to subparagraph (b), Manager acknowledges that nothing in subparagraph (b) will be read to restrict the Executive Director's access to any customer data for regulatory, security, responsible gaming oversight, or auditing purposes; and the Executive Director agrees customer data provided by Manager will not be used for any Player's club or similar incentive or promotion program instituted by the Executive Director. Nothing in this paragraph will be read to prevent Manager from instituting its own Player's club or similar incentive or promotional program at the Lottery Gaming Facility provided that such club or program is authorized by the Executive Director. The Executive Director agrees Manager has the right to establish a Player's club that awards to Players credits based on their play at the Lottery Gaming Facility, provided that such awards programs are approved by the Executive Director.

40. **Players' Tracking System.** The Executive Director may institute a Players' tracking system applicable to some or all Racetrack Gaming Facilities or Lottery Gaming Facilities owned and operated by the Kansas Lottery. Manager will administer such program at the Lottery Gaming Facility as the Executive Director may provide. Nothing in this paragraph will be read to prevent Manager from instituting its own Player's tracking system at the Lottery Gaming Facility provided that such system is authorized by the Executive Director. The Executive Director shall consult with Manager in developing a Player's tracking system in an effort to avoid materially impairing any similar system being implemented by Manager. Notwithstanding, Manager shall have no financial responsibility for any of the costs and expenses associated with the implementation and operation of a Player's tracking system by the Executive Director.

41. **Use of Trademarks, Service Marks, Trade Names and Proprietary Information.** Manager is authorized to employ any of the Kansas Lottery's trademarks, trade names, and service marks in any advertising, marketing or promotion for the Lottery Gaming Facility or the Lottery

Facility Games placed therein, subject to the Executive Director's right to approve such advertising, marketing or promotion. Manager acknowledges it has no other right regarding the Kansas Lottery's trademarks, service marks, and trade names. Manager will not be required to pay any royalty or other fee for this usage. In addition, the Executive Director may require Manager to place Kansas Lottery's trademarks, trade names, or service marks at locations within the Lottery Gaming Facility as designated by the Executive Director in order to identify the games and gaming equipment as being owned and operated by the Kansas Lottery on behalf of the State of Kansas.

The Kansas Lottery is authorized to employ any of Manager's trademarks, trade names, and service marks in any advertising, marketing or promotion for the Lottery Gaming Facility or the Lottery Facility Games placed therein, subject to the Manager's right to approve such advertising, marketing or promotion. The Kansas Lottery acknowledges it has no other right regarding the Manager's trademarks, service marks, and trade names. The Kansas Lottery will not be required to pay any royalty or other fee for this usage.

To the extent the Kansas Lottery obtains or has access to any Proprietary Information or Trade Secrets as defined in K.S.A. 60-3320 (4)(i)(ii) ("Information") of Manager or its affiliates, the Kansas Lottery agrees: (a) to maintain the confidentiality of such Information; (b) not to use such Information for any purpose other than as permitted under this Agreement; and (c) upon the termination of this Agreement, upon written request from Manager, to return same to Manager (including all copies thereof), including, but not limited to, documents, notes, memoranda, lists, computer programs and any summaries of such Information in the Kansas Lottery's possession or control, but excluding any Information which the Kansas Lottery may retain pursuant to the express terms of this Agreement and that immediately upon termination of this Agreement the Kansas Lottery shall cease using all Information.

To the extent the Manager obtains or has access to any Proprietary Information or Trade Secrets as defined in K.S.A. 60-3320 (4)(i)(ii) ("Information") of the Kansas Lottery, the Manager or its affiliates agree: (a) to maintain the confidentiality of such Information; (b) not to use such Information for any purpose other than as permitted under this Agreement; and (c) upon the termination of this Agreement, upon written request from Kansas Lottery, to return same to the Kansas Lottery (including all copies thereof), including but not limited to documents, notes, memoranda, lists, computer programs and any summaries of such Information in the Manager's possession or control, but excluding any Information which the Manager may retain pursuant to the express terms of this Agreement and that immediately upon termination of this Agreement the Manager shall cease using all Information.

Throughout the term, Manager or one of its affiliates may host and retain a database relating to customer's activities at the Lottery Gaming Facility, including all customer information gathered in connection with any casino player loyalty program card or successor player or guest rewards program, and Manager or one of its affiliates shall own and be entitled to use any and all of the customer or other information gathered by Manager or its affiliates in connection with this Agreement or such programs. The Kansas Lottery shall have access to such information for the purposes of security, auditing, or enforcement.

Subject to the requirements of the Kansas Expanded Lottery Act and with Executive Director approval, Manager may purchase, lease, license, or otherwise obtain and have installed and maintained, either through Manager and its affiliates or Manager's designated suppliers, any computer and other systems that Manager determines to be necessary for management of the Lottery Gaming Facility in accordance with the approved Budget and Business Plans; provided that such systems may not adversely



affect the Kansas Lottery's central computer system or affect a Lottery Facility Game's elements of chance, consideration or prize.

42. **Personnel.** Manager will provide, supervise, direct the work of, discharge, and determine the compensation and other benefits of all personnel necessary to provide for the play of Lottery Facility Games at the Lottery Gaming Facility, except as otherwise noted in this Agreement, based upon a staffing plan in accordance with industry standards approved by the Executive Director. Such personnel will not be considered employees of the Kansas Lottery or any other agency or department of the State of Kansas. Manager may determine the compensation to be paid to all of its personnel working at the Lottery Gaming Facility provided that such compensation is substantially within the budget for personnel compensation approved by the Executive Director. Manager must ensure its personnel meet all applicable regulatory requirements imposed by the Commission or the Kansas Racing and Gaming Commission. Manager will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin nor violate any applicable law, regulation or local ordinance governing employer obligations.

43. **Personnel Training.** Manager will provide and direct employee recruitment, instructional programs, incentives, and on-the-job training necessary to ensure a first class facility for the playing of Lottery Facility Games by the public. Such trainings and other programs for personnel are subject to the Executive Director's approval, but may be conducted on or off site, on the job, or by instructors at or from educational training facilities.

44. **Key Employees.** Manager agrees the personnel, or positions, as well as any independent contractors designated in Exhibit D, are considered Key Employees, whose ability to participate in the operation or management of the Lottery Gaming Facility are subject to the Executive Director's approval within his sole discretion; provided, however, that nothing in this paragraph will restrict the right of either the Kansas Lottery or the Kansas Racing and Gaming Commission to take action regarding the license/certification held by any of Manager's employees in accordance with applicable statutes or rules and regulations promulgated pursuant to law. The Executive Director may amend the Key Employees list at any time for any reason. Any notice of disapproval of a Key Employee or the amendment of the Key Employee list shall be in writing. Any Key Employee disapproved or deleted from the Key Employee list shall have a right to file a written request for reconsideration to the Executive Director, within thirty (30) days.

45. **Books and Records; Financial Statements.** Manager must maintain an accurate accounting system in connection with its management of the Lottery Gaming Facility. The books and records will be kept in accordance with generally accepted accounting principles maintained in accordance with current industry standards for similar gaming businesses. The books and records shall be maintained at all times either at the Lottery Gaming Facility or at such other locations as may be specified by regulation. The Executive Director, or his designees, shall have the right and privilege of examining these books and records at any time. In addition, the Executive Director may at any time obtain and pay for an audit performed by an independent certified public accountant. If this audit reveals a discrepancy greater than \$10,000 in Lottery Gaming Facility Revenues or a cumulative discrepancy greater than \$100,000 on any other line items previously reported to the Executive Director from the books and records provided by Manager, the audit's cost will be reimbursed by Manager as a set off from the compensation to be paid Manager pursuant to Paragraph 25 above. On or before the 20<sup>th</sup> day following the close of each month, Manager must furnish the

Executive Director with a reasonably detailed operating statement for the Lottery Gaming Facility for that period, including year-to-date results.

46. **Records Retention and Access.** Manager must maintain all books and records regarding the Lottery Gaming Facility for a minimum period of five (5) years, or such other longer period as may be imposed by regulation or statute. Manager must permit access to such books and records as is legally required by law, regulation, or this Agreement, including giving access to the Post Auditor for the Kansas Legislature, the Executive Director or his designee, authorized representatives for the Kansas Racing and Gaming Commission, or any authorized representative of the United States government.

47. **Budget and Business Plans for Each Fiscal Year.** No later than forty-five (45) days prior to the commencement of each Fiscal Year, Manager must submit to the Executive Director a budget (the "Budget") and a proposed Business Plan for the Lottery Gaming Facility for such Fiscal Year, containing reasonably detailed revenue and expense projections and providing projections for all material expenditures that Manager anticipates to be made, as well as all anticipated material capital expenditures and material expenditures for replacements. The Budget will accompany and be compatible with Manager's proposed Business Plan for the upcoming Fiscal Year. The Budget is intended as, and will represent only, an estimate of the projected revenues and expenditures for the Fiscal Year based upon assumptions believed by Manager to be reasonable at the time of preparation. The Budget and proposed Business Plan for each upcoming Fiscal Year will be subject to the Executive Director's approval and/or amendment. Thereafter, Manager will use reasonable efforts to achieve the budgetary goals reflected in the Budget, but the parties both recognize the Budget cannot be relied upon as an assurance of actual results for such Fiscal Year. Manager must promptly notify the Executive Director of any need to depart in any material way from the Budget if, in Manager's judgment, adherence to the Budget is impractical or if such departure is necessary or desirable for the Lottery Gaming Facility's efficient or profitable operation. Any such material deviations from the Budget are subject to the Executive Director's approval. Until such time as a Budget or Business Plan is approved for any fiscal year, Manager may operate in substantial accordance with the previous fiscal year's Budget or Business Plan as approved by the Executive Director. Notwithstanding the foregoing, if the Executive Director objects to any portion of a proposed Budget, Executive Director shall advise Manager of such objection (and deliver to Manager a reasonably detailed description of such objections, the "Disapproved Items") and Manager and the Executive Director shall in good faith discuss and resolve the objection. If the Executive Director objects, the Manager shall promptly revise the Budget to address the Disapproved Items and shall resubmit the same to Executive Director until Executive Director approves such Disapproved Items. In addition, if any Disapproved Item is required to be paid pursuant to applicable federal, state or local law, rule, regulation, order or statute or by any governmental authority with jurisdiction with respect thereto, the cost and expense of which were approved pursuant to previous Budgets, then Manager shall be permitted to pay the same. Until such time that Executive Director approves such Disapproved Items, the most recently approved Budget shall apply other than with respect to the Disapproved Items with respect to which the previously approved Budget shall apply.

48. **Bank Accounts.** Manager shall establish or facilitate the establishment of the bank accounts listed below:

- a) a special bank account in the name of the Kansas Lottery at a Kansas bank approved by the Executive Director and the Pooled Money Investment Board of the State of

Kansas, with the Kansas Lottery being the only party authorized to draw from this account. This bank account will be used by Manager solely to deposit daily receipts of Lottery Gaming Facility Revenues, from which account the Lottery will cause an electronic sweep or otherwise transfer of funds pursuant to Paragraph 23 of this Agreement. Manager will have no right to grant any security interest to anyone regarding these funds or this account.

- b) one account in Manager's name at a bank in a jurisdiction of Manager's choosing for the purposes of receiving its compensation payment from the Kansas Lottery pursuant to Paragraph 26. The Executive Director will cause Manager's portion of the Lottery Gaming Facility Revenues to be electronically deposited into this account monthly;
- c) one or more accounts into which amounts sufficient to cover all operating expenses and other costs of the Lottery Gaming Facility shall be deposited from time to time by Manager (by transfer of funds from the account in Paragraph 48(b) above or otherwise); and
- d) such other accounts as Manager deems necessary or desirable.

49. **Events of Default.** Each of the following will constitute an event of default by Manager:

- a) Manager's failure to pay any amount owed the Kansas Lottery in the manner provided for in this Agreement, subject to Manager's right to cure as provided in Paragraph 23, if the Kansas Lottery decides in its sole discretion to give notice of such default to Manager and, other than with respect to Paragraph 23, if Manager fails to cure such nonpayment within seven (7) days after the date on which such notice was received,
- b) The filing of a voluntary assignment in bankruptcy or insolvency or a petition for reorganization under any bankruptcy law by Manager;
- c) The consent to an involuntary petition in bankruptcy by Manager;
- d) Entry of an order, judgment or decree by any court of competent jurisdiction, on application of a creditor, adjudicating Manager a bankrupt or insolvent or approving a petition seeking reorganization or appointing a receiver, trustee or liquidator of all or a substantial part of Manager's assets, if such order, judgment or decree continues unstayed and in effect for a period of 120 consecutive days; or
- e) Manager's material failure to perform, keep or fulfill any other covenant, undertakings, obligations or conditions set out in this Agreement for a period of thirty (30) days after written notice of said failure from the Executive Director (unless a shorter period of time is specified in this Agreement); provided, however, that if the

default is not susceptible of being cured within this thirty (30) day period and the defaulting party with due diligence takes and continues action to cure, then no event of default will be deemed to have occurred until the failure to take or to continue to take such action; or

- f) Withdrawal of any approval granted, loss or suspension of any license/certification issued to Manager by the Kansas Racing and Gaming Commission or any other regulatory entity with jurisdiction over Manager's activities unless such withdrawal, suspension or loss is being contested by Manager in the appropriate forum with jurisdiction over the agency action at issue.

50. **Remedies on Default.** If an event of default occurs as provided in Paragraph 49 above, the Executive Director may, without prejudice to any other legal or equitable remedy which he may have, give Manager notice of the Kansas Lottery's intention to terminate this Agreement after the expiration of forty-five (45) days from the date of such notice and upon the expiration of such period, unless another cure period is expressly provided for, this Agreement will be deemed terminated; provided, however, that nothing in this paragraph, or in this Agreement, will be construed to restrict the Executive Director's authority to: (a) immediately cease operation of any or all Lottery Facility Games at the Lottery Gaming Facility for any reason; or (b) physically secure or take possession of any or all Lottery Facility Games and any related equipment necessary to play such games. Manager acknowledges and agrees that once this Agreement is terminated, the Kansas Lottery thereafter will be free to enter into a management contract with a new manager for another Lottery Gaming Facility in the Kansas gaming zone without penalty to the Kansas Lottery or further recourse by Manager. During the forty-five (45) day period between Manager's receipt of notice of termination from the Executive Director and such termination becoming effective, the Executive Director shall cooperate in good faith with Manager in any effort undertaken by Manager to locate a third party to acquire the Lottery Gaming Enterprise and assume the obligations of Manager hereunder; provided, however, the Manager expressly acknowledges and agrees that any third party must comply with all statutory and licensure requirements and be able to perform all such obligations hereunder. Notwithstanding the foregoing, Manager further acknowledges that its failure to make any daily electronic payment of Lottery Gaming Facility Revenues as required by Paragraph 23 will authorize the Executive Director in his sole discretion to immediately terminate this Agreement.

51. **Remedies Cumulative.** No remedy conferred upon or reserved to the Kansas Lottery in this Agreement is intended to be exclusive of any other available remedy, but each and every such remedy will be cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient in favor of the Kansas Lottery.

52. **Surrender Upon Termination.** At the Executive Director's request, Manager agrees that at the expiration or earlier termination of this Agreement, Manager will deliver to the Executive Director, or his designee, all books, records, accounting documents, computerized files, contracts, leases, licenses/certifications, permits or other governmental authorizations, files, supplies, keys, locks safe combinations, insurance policies not maintained as part of Manager's blanket policies, warranty contracts and cards, operating instructions and other information, warranties and guaranties concerning all equipment relating to the Lottery Facility Games, as well as any maintenance or

preventive maintenance programs, schedules and logs, records, inventories of personal property and equipment purchased on behalf of the Kansas Lottery or the State of Kansas, and all other information regarding the Lottery Facility Games, and all accounts and sums held or maintained by Manager on behalf of the Kansas Lottery. Notwithstanding the foregoing, Manager shall be entitled to retain copies of all documents, records, books, files and other materials delivered to the Executive Director. Manager will have a reasonable period of time, not to exceed forty-five (45) days from the termination date, to complete all accounting functions with respect to the Lottery Gaming Facility. Manager must cooperate with the Executive Director in changing any bank accounts maintained for the Kansas Lottery's benefit. Manager must take all actions reasonably necessary to facilitate the orderly transition or termination of the management of the business of the Lottery Gaming Facility and must perform all reporting and accounting functions required by this Agreement for the period from the date of the last report or accounting to the termination date. If, at the termination of this Agreement, there are any Lottery Facility Games that were purchased by Manager on behalf of the Kansas Lottery with ownership transferred to the Kansas Lottery, then the Executive Director will transfer ownership of such games to Manager or Manager's designee, if such transfer is lawful; but if such transfer is not lawful, then the Executive Director will refund to Manager the residual value received by the Executive Director in a sale of such game to an eligible buyer. The Kansas Lottery will also vacate the physical space where the Lottery Gaming Facility was located within forty-five (45) days of this Agreement's termination.

53. **Agreement to Pay Attorneys' Fees and Expenses.** If Manager defaults under any provision of this Agreement and the Kansas Lottery should employ attorneys or incur other expenses for the collection of amounts payable or to enforce performance or observance of Manager's obligations under this Agreement, Manager must pay, on demand, the reasonable fees of such attorneys and such other expenses incurred by the Kansas Lottery, if the Kansas Lottery is the prevailing party.

54. **Manager's Indemnification Responsibilities.** In addition to any other indemnification obligations provided in this Agreement or by law, Manager agrees to do the following to the fullest extent allowed by law:

- a) To hold and save harmless the State of Kansas, Commission, Commission members, the Executive Director, the Kansas Lottery, Kansas Lottery staff, Kansas Racing and Gaming Commission, Kansas Racing and Gaming Commission members, the Kansas Racing and Gaming Commission's executive director, and Kansas Racing and Gaming Commission staff (each an "Indemnified Party") from liability for injury to persons or damages to property by reason of Manager's activities in carrying out the provisions of, or any way connected with this Agreement.
- b) To hold and save harmless any Indemnified Party upon demand for any money or other property which they are required to pay out for any reasons whatsoever, whether the payment is for a budgeted expense or any other charges or debts incurred or assumed by Manager, or any other party, or judgments, settlement or expenses in defense of any claim, civil action, proceeding, charge, or prosecution made, instituted or maintained against Manager or an Indemnified Party jointly or severally, affecting or because of the condition or use of the Lottery Gaming Facility, or acts or failure to act by Manager or Manager's agents, or arising out of or based upon any law, regulation, requirement, contract or award related to the hours of employment,

working conditions, wages and/or compensation of employees or former employees at the Lottery Gaming Facility, or any other cause in connection with the Lottery Gaming Facility's management or Manager's activities related to any Ancillary Lottery Gaming Facility Operations. This entire Paragraph 54 does not include any action against the Indemnified Parties or their staff regarding the constitutionality of the Kansas Expanded Lottery Act or misconduct by an Indemnified Party that is found to be negligent, willful or malicious.

- c) To hold and save harmless any Indemnified Party from liability for any claim arising as a result of the selection of Manager under the Kansas Expanded Lottery Act to manage the Lottery Gaming Facility in the South Central Zone, the denial of some other potential manager in making that selection, the process used in making the selection, or the process used in applying to become a Lottery Gaming Facility Manager under the Kansas Expanded Lottery Act.
- d) To hold and save harmless any Indemnified Party from liability for any violation or breach of this Agreement by Manager, its employees, or agents.
- e) To hold and save harmless any Indemnified Party from liability for any claims alleging negligent acts or omissions by Manager, its officers, employees, agents, board members, contractors, subcontractors or agents in the performance of this Agreement.
- f) To hold and save harmless any Indemnified Party from liability for any claims alleging violations of any intellectual property right for any intellectual property supplied by Manager under this Agreement, including but not limited to, infringement of patents, trademarks, trade dress, trade secrets, or copyrights arising from Manager's performance under this Agreement.

Manager's duties under this paragraph will survive the termination or expiration of this Agreement. To the extent Manager is responsible to defend any Indemnified Party as required under this Agreement, Manager agrees to defend (with counsel approved by the Executive Director), at Manager's sole expense, any Indemnified Party, and to pay on demand all costs and expenses related to such defense regarding any indemnification right provided for in this paragraph. The Kansas Lottery shall cooperate in any such defense and will promptly provide notice to Manager of any potential liability arising under this Paragraph 54. Manager's obligations under this paragraph may be satisfied in whole, or in part, by insurance purchased at Manager's expense, provided that Manager will be responsible for any indemnified liabilities in excess of insurance limits. Notwithstanding any provision to the contrary in this Agreement, Manager shall in no event be liable under any indemnification obligation provided in this Agreement to the extent such liability arises out of or is related to the negligent, willful or malicious conduct of any Indemnified Party or resulting from actions taken by Manager at the specific direction of the Executive Director, or any other Indemnified Party that is specifically authorized under the Kansas Expanded Lottery Act or regulation promulgated thereunder to direct the actions of Manager. The provisions of this paragraph in no way eliminate or cancel the insurance protection and rights granted to the Kansas Lottery, the Commission, the State of Kansas and their agents and employees as set forth in Paragraphs 34 and 35 of this Agreement.

55. **Compliance with Orders, Ordinances, Etc.** Throughout this Agreement's term, Manager will promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses/certifications, authorizations, directions and requirements of all federal, state, county, municipal and other governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Lottery Gaming Facility or any part thereof, or to any use, manner of use or condition of the Lottery Gaming Facility or any part thereof. Notwithstanding these requirements, Manager may in good faith contest the validity of the applicability of any requirement of the nature referred to in this paragraph. In such event, Manager

may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, so long as such non-compliance is permitted by law. Manager will give notice to the Executive Director of any such non-compliance.

56. **Discharge of Liens and Encumbrances.** Manager shall not permit or create or suffer to be permitted or created any lien upon the Lottery Gaming Facility Revenues or the Lottery Gaming Facility, or any part thereof, by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Lottery Gaming Facility or any part thereof, except any liens expressly approved in writing by the Executive Director. Notwithstanding these requirements, Manager may in good faith contest any such lien. In such event, Manager, upon prior written notice to the Executive Director, may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal, unless the Executive Director requires Manager to promptly secure payment of all such unpaid items by filing the requisite bond, in form and substance satisfactory to the Executive Director, thereby causing a lien to be removed. Manager agrees this Agreement is not to be considered property, and will not permit this Agreement to be attached, garnished, or executed upon by any creditor for any reason, but such attachment, garnishment or execution shall not be grounds for default if Manager promptly contests and obtains vacation of such writs or secures a bond that causes the lien thereof to be removed. This Agreement is not transferable in bankruptcy without the Executive Director's approval, provided that the Manager's trustee, if Manager is insolvent or bankrupt, may continue to operate the Lottery Gaming Facility pursuant to this Agreement under order of the appropriate court for no longer than one year after the bankruptcy or insolvency of Manager.

57. **Assignment.** This Agreement may not be assigned in whole or in part without the Executive Director's express written consent, which may be granted or withheld in his sole and absolute discretion, except that the parties recognize that consistent with the Manager's original Application, the entire interest in this Agreement and the rights, duties and obligations herein shall be assigned to a wholly owned affiliate of the Applicant, the Kansas Star Casino, LLC provided such entity receives all required approvals. Additionally, this Agreement may be assigned in whole or in part to any Lender as provided in paragraph 78 hereto subject to Lender's compliance with all statutory requirements, regulatory procedures, (including those related to suitability), and Executive Director approval.

58. **Notices.** All notices and other communications provided for under this Agreement, or any applicable statute or regulation, must be in writing and sent via (a) U.S. Mail, certified mail, return receipt requested, (b) recognized national overnight courier (e.g. FedEx, UPS, DHL, etc.), (c)

hand delivery or (d) fax, if followed by notice under (a) or (b) at the addresses set forth below, or at such other address as such party may specify by written notice to the other parties hereto:

If to the Executive Director:

Ed Van Petten  
Kansas Lottery  
128 N. Kansas Avenue  
Topeka, KS 66603-3638  
Telephone: 785-296-5703  
Facsimile: 785-296-5722

If to Manager:

James Adams  
Vice President - Legal Affairs  
Peninsula Gaming, LLC  
600 Star Brewery Dr., Suite 110  
Dubuque, IA 52001  
Office: (563) 690-4975

[James.Adams@peninsulagaming.com](mailto:James.Adams@peninsulagaming.com)

With a copy to

John C. Frieden  
Frieden, Umrein, Forbes & Biggs LLP  
555 S Kansas Avenue, Suite 303  
P O Box 639  
Topeka, KS 66601-0639  
TEL 785.354-1100  
FAX 785.354.1113  
[jfrieden@fufblaw.com](mailto:jfrieden@fufblaw.com)

Notice will be deemed given three days after mailing, if by certified mail, return receipt requested, the next business day after delivery to an overnight delivery service for next business day delivery, or on the date sent by fax if confirmation of receipt is obtained and retained and provided that notice under (a) or (b) above is sent the same day.

59. **Amendments.** Except as otherwise provided in this paragraph, no amendment, waiver, or consent as to any provision in this Agreement will be effective unless it is in writing and agreed to by the Executive Director and Manager, and each such waiver or consent will be effective only in the specific instance and for the specific purpose for which given. In addition, and notwithstanding any other provision in this Agreement, Manager acknowledges and agrees the Executive Director may overrule any action by Manager affecting operations within the Lottery Gaming Facility without prior notice to Manager, and that the Kansas Lottery maintains at all times full control over all decisions concerning the Lottery Facility Games placed at the Lottery Gaming Facility. This Agreement will also be modified, in whole or in part, in order to comply with future statutory enactments or judicial interpretations of applicable law by a court of competent jurisdiction. This Agreement is subject to modification, in whole or in part, or cancellation, as deemed necessary by the



Executive Director to comply with any future statutory enactments, subsequent regulatory changes, or judicial interpretations of applicable law by a court of competent jurisdiction occurring after this Agreement's execution, without additional consideration being exchanged between the parties. The parties agree nothing in this paragraph will be read to limit the remedies provided to Manager in Paragraphs 31 or 65. In addition, the parties will consider in good faith any proposals made to amend this Agreement during its term, to the extent, if any, they are authorized by law.

Notwithstanding, any provision to the contrary, it is understood, acknowledged and agreed to by the parties hereto that amendments to the KELA after the date of execution of this Agreement shall not impair either party's legal entitlements or remedies that would have been available at law or equity before the date of any such amendment.

**60. No Recourse; Special Obligation.**

(a) The Kansas Lottery's obligations and agreements contained herein and any other instrument or document executed in connection with this Agreement, and any other instrument or document supplemental thereto or hereto, are deemed the obligations and agreements of the Kansas Lottery, and not of any member, officer, contractor (other than Manager), or employee of the Commission or Kansas Lottery in his or her individual capacity, and such individuals will not be liable personally hereon or thereon or be subject to any personal liability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

(b) The Manager's obligations and agreements contained herein and any other instrument or document executed in connection with this Agreement and any other instrument or document supplemental thereto or hereto, are deemed the obligations and agreements of Manager, and not of any direct or indirect equity owner, member, partner, officer, director, contractor, or employee of Manager in his or its individual capacity, and such entities and individuals will not be liable personally hereon or thereon or be subject to any personal liability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby, with the exception of agreements, documents or instruments that are signed by any person or entity in his or its individual capacity, such as an individual disclosure form.

**61. Severability.** If any provision in this Agreement is determined to be invalid or unenforceable by any court with competent jurisdiction, such holding will not invalidate or render unenforceable any other provision, and the parties may renegotiate this Agreement to conform to any such court holding.

**62. Binding Effect.** This Agreement will inure to the benefit of, and will be binding upon, the State of Kansas, the Kansas Lottery, Manager, and their respective successors and assigns.

**63. Force Majeure.** With respect to any obligation to be performed by a party during this Agreement's term, no party will be liable for failure to perform when prevented by any force majeure cause beyond the reasonable control of such party such as an act of God, weather, strike, lockout, breakdown, accident, order or regulation of or by any governmental authority, delay in obtaining any approval required by any governmental authority (and such delay is not caused by Manager), failure of supply or inability, by the exercise of reasonable diligence, to obtain supplies, parts or employees

necessary to perform such obligation, or war or other emergency. The time within which such obligation must be performed will be extended for a period of time equivalent to the delay from such cause. But failure to perform by Manager's subcontractors or agents will not be considered a force majeure unless such subcontractor or supplier is prevented from timely performance by a force majeure as described above. This paragraph will not apply to any financial difficulties of Manager, or any parent, subsidiary, or affiliated or associated company of Manager, but will apply to orders from any authorized governmental authority or court orders preventing Manager's ability to perform. The provisions of this paragraph notwithstanding, the parties agree the litigation components of the force majeure definition do not apply to Manager's obligations to pay the privilege fee as required by Paragraph 20 above or to Manager's obligations to pay the expenses of the Kansas Lottery or the Kansas Racing and Gaming Commission as required by Paragraph 28, except, in each case, if such litigation components restrict, prohibit or disallow Manager from making such payments (or any portion thereof), in which case Manager shall be permitted to comply with such litigation components and such compliance shall not be, nor shall it be deemed to be, an event of default hereunder.

64. **Emergency Closings.** If at any time during this Agreement's term it becomes necessary in the Executive Director's or Manager's reasonable opinion to cease operations at the Lottery Gaming Facility in order to protect the facility or the health, safety and welfare of guests or employees for reasons of force majeure such as, but not limited to, acts of war, insurrection, civil strife and commotion, labor unrest, environmental risks or other casualty, then the Lottery Gaming Facility may be closed and cease operation of all or part of the facility. If this occurs based on Manager's determination, Manager must immediately notify the Executive Director, who will then determine when the Lottery Gaming Facility is reopened without jeopardy to the facility, its guests or employees.

65. **Manager's Right to Cease Management Activities.** Manager may cease management of the Lottery Gaming Facility and terminate this Agreement with no less than six months advance written notice if:

- a) K.S.A. 2008 Supp. 74-8734(h)(1) or other applicable statute or regulation is amended to reduce the term of this Agreement;
- b) Either K.S.A. 2008 Supp. 74-8734(h)(12) or (13) or other applicable statute or regulation are amended to increase the minimum percentages stated in K.S.A. 2008 Supp. 74-8734(h)(12) or (13) above the amounts provided for in this Agreement;
- c) K.S.A. 2008 Supp. 74-8734 (h)(16) or other applicable statute or regulation is amended to increase above the aggregate the minimum percentages stated in K.S.A. 2008 Supp. 74-8734(h)(16) above the amounts provided for in this Agreement;
- d) The Kansas Lottery fails to effect payment of Manager's compensation as due under this Agreement and not otherwise in dispute, provided such failure of payment is not cured within ten (10) business days of notice by Manager to the Executive Director;
- e) K.S.A. 2008 Supp. 74-8739 is amended to no longer permit the sale or service of alcoholic beverages at the Lottery Gaming Facility or Ancillary Lottery Gaming Facility Operations;

- f) The Kansas Expanded Lottery Act is amended to preclude the Kansas Lottery from owning and operating table games at the Lottery Gaming Facility; or the Kansas Lottery, the Kansas Racing and Gaming Commission, or the State of Kansas otherwise (i) preclude the Kansas Lottery from owning and operating the Lottery Facility Games permitted as of the date of this Manager's Application for Lottery Gaming Facility Manager, or (ii) reduces the number of Lottery Facility Games contemplated for all phases of the project by this Manager's Application for Lottery Gaming Facility Manager.
- g) A court of competent jurisdiction, after all appropriate appeals are exhausted, invalidates paragraph 30 above or the corresponding provisions of the Kansas Expanded Lottery Act;
- h) The Lottery Gaming Facility operates at a financial loss to Manager at the net income level (as defined by GAAP and verified by an independent audit by an auditor approved by the Executive Director) during any rolling twelve (12) month period; and Manager gives the Executive Director at least 90-days' advance written notice of Manager's intent to cease management activities within forty-five (45) days after the end of said period;
- i) The Executive Director exercises his right under Paragraph 33 or the Kansas Expanded Lottery Act to physically secure, deactivate or cease operation of such a substantial number of Lottery Facility Games that the Lottery Gaming Facility is no longer commercially viable.
- j) The Kansas Lottery or Kansas Racing and Gaming Commission prevents the Lottery Gaming Facility from operating 24 hours a day, 7 days a week, except as may be ordered by the Kansas Lottery or the Kansas Racing and Gaming Commission as a sanction within the legal exercise of their respective regulatory authority or by the Kansas Lottery under its contract or statutory authority; or
- k) In the event the central computer system is implemented in a manner materially adverse to the competitive position of the Lottery Gaming Facility in the market or the Manager's ability to maximize Lottery Gaming Facility Revenues;

The parties agree that in addition to, or in lieu of, Manager's right to cease management activities under this paragraph, Manager will have available to it any legal or equitable remedy against the State of Kansas, including any impairment of the obligations of this contract prohibited by Article I, Section 10, Clause 1 of the Constitution of the United States of America, if any of the circumstances stated above in sub-paragraphs (a), (b), (c), (d), (e) or (f) occur. Nothing in this paragraph will be deemed a waiver of the immunities and protections reserved to the State of Kansas under the Eleventh Amendment to the Constitution of the United States.

66. **Manager's Ability to Withdraw Application.** Manager may withdraw its application to be a Lottery Gaming Facility Manager at any time prior to its approval by the Kansas

Racing and Gaming Commission. Notice of Manager's withdrawal must be given in writing to the Executive Director. If at the time of Manager's withdrawal, Manager has paid a privilege fee to the state treasurer and credited to the Lottery Gaming Facility Manager Fund, the Executive Director will promptly notify the state treasurer of Manager's withdrawal and direct the state treasurer to refund Manager's privilege payment without interest. Manager acknowledges and agrees that if it withdraws its application pursuant to this paragraph, this Agreement will be void (with the exceptions of Sections 8, 28, (except that with respect to Section 28, Manager shall only be liable for any obligations which accrued prior to the date of its withdrawal), 54, 58, 60, 70, 71 and 72) and it will not be permitted to re-apply as a Lottery Gaming Facility Manager in the South Central Gaming Zone unless the application process is reopened. Manager will not be permitted any refund for payments made by Manager to reimburse the Kansas Lottery or the Kansas Racing and Gaming Commission's expenses as required by this Agreement.

**67. Financing Commitment for Construction and Additional Commitments and Incentives (if any).**

- a) In accordance with K.S.A. 2008 Supp. 74-8734(h)(9), Manager attaches as Exhibit E its financing commitment for construction of the Lottery Gaming Facility and ancillary facilities.
- b) Manager is committing \$1.5 million annually to the families of Sumner County, through the creation of the Kansas All-Star Scholars Fund "Ad Astra." To support education in the region, all students in grades K-12 would be given a \$100 educational reward card to be used at area merchants to purchase back-to-school supplies. These cards would be distributed at the time of enrollment each August. Certain restrictions would apply to the use of the card. Those and other operational questions would be addressed by a local non-profit board established to oversee the program. Further, all graduating high school seniors in Sumner County and Mulvane would be given a \$1,000 scholarship to be used toward their post-secondary endeavors. A non-profit board, the Kansas All-Stars Scholars "Ad Astra" Board, would be appointed to oversee the administration of the program. This blue-ribbon panel would be comprised of local business leaders, K-12 education leaders and recognized leaders from the state's higher education community. Its membership (5 members) would be appointed by state and local officials and serve set terms. The balance of funds remaining each year after funding the Kansas All-Star Scholars Fund "Ad Astra" will be contributed to Sumner County's general fund.

**68. Executive Director's Approval.** When it is provided in this Agreement that the Manager will submit a budget, plan or other issue for the Executive Director's approval, the Executive Director will respond within 10 business days of the Kansas Lottery, provided that any request from Manager in which the Executive Director fails to respond in that time will be deemed denied. The Executive Director will not exercise his discretionary authority provided to him in this Agreement in an unreasonable, arbitrary or capricious manner.

**69. Central Computer System.** Manager acknowledges and agrees that all Electronic Gaming Machines at the Lottery Gaming Facility will be directly linked to a central computer at a location determined by the Executive Director for purposes of security, monitoring, auditing, and

providing other available program information to the Kansas Lottery. The Executive Director will have sole authority to determine the functions and operational capacities to be performed through this central computer system by Manager, as well as the services provided by the vendor engaged by the Executive Director to provide the central computer system. In addition to all other functions to be performed by the central computer system, the Executive Director expressly reserves the authority to determine if this central computer system will be used to validate or redeem tickets issued by an Electronic Gaming Machine commonly referred to as "Ticket-in Ticket Out."

70. **Counterparts.** This Agreement may be executed in counterparts, each of which will be an original and all of which will constitute one and the same instrument.

71. **Applicable Law.** This Agreement will be governed, construed, and enforced in accordance with Kansas law for contracts to be wholly performed within the state.

72. **Jurisdiction and Venue.** Any action by or between the parties challenging the constitutionality of, or arising out of, any provision of the Kansas Expanded Lottery Act, this Agreement, or any rule or regulation promulgated pursuant to the Kansas Expanded Lottery Act must be brought in the district court of Shawnee County, Kansas, unless a dispute is first subject to proceedings under the Kansas Administrative Procedure Act.

73. **Headings Not Controlling; Construction; Survival.** Each paragraph heading is prepared for convenience only and is not to control, affect the meaning, or be taken as an interpretation for any provision in this Agreement. Use of the word "including" in this Agreement does not mean including in a restrictive sense, but rather means in the sense of providing a non-exclusive illustration, as if the words "including without limitation" were included in the text. The terms and provisions of Paragraphs 2, 8, 20, 31, 48, 52, 54, 58, 60, 65, 71, 72, 73, 74 and 78 shall survive the termination of this Agreement.

74. **No Joint Venture Created.** Manager and the Kansas Lottery agree and acknowledge that by entering into this Agreement they are not entering into a joint venture.

75. **Covenant for Continued Disclosure.** Within 30 days after the close of the Fiscal Year, Manager must update all exhibits to this Agreement as designated by the Executive Director. Upon the Executive Director's written request, Manager will provide such other information regarding the financial or legal undertakings of Manager, the Lottery Gaming Facility, or the Ancillary Lottery Gaming Facility Operations.

76. **No Endorsement Made.** By executing this Agreement the Kansas Lottery, the Kansas Racing and Gaming Commission, and the State of Kansas have not considered or endorsed the marketability of Manager's securities or marketability of any securities of Manager's affiliates.

77. **Contractual Attachment.** It is further agreed that the provisions found in the Contractual Provisions Attachment (Form DA-146a), and is attached as Exhibit F, are incorporated in this Agreement as though set out in full.

78. **Lender Protection.** The Kansas Lottery expressly recognizes the need for Manager to obtain favorable financing terms and the need for any third party lender (Lender) associated with the development of the Lottery Gaming Enterprise to protect its investment.


Therefore, in connection with any financing from a Lender during the term of this Agreement or in connection with the construction of the Lottery Gaming Enterprise, the following provisions will apply:

- a. The Kansas Lottery acknowledges that Manager may grant a security interest in, and/or grant a mortgage encumbering, the Lottery Gaming Enterprise, Lottery Facility Games, and any bank accounts of Manager referenced in Paragraph 48 but excluding any Collection Accounts
- b. Upon a bankruptcy of Manager, or if the Kansas Lottery elects to terminate this Agreement for any other reason, it shall notify Lender, and Lender may request that the Kansas Lottery promptly enter into a new management agreement on substantially the same terms as this Agreement (New Management Agreement) with a new, Third Party Manager. Kansas Lottery need not consider such a request, however, unless a Lender has first: (i) cured all reasonably curable defaults to the extent required hereunder; (ii) reimbursed Kansas Lottery's costs and expenses (including reasonable attorneys' fees and expenses) to terminate this Agreement, recover the Lottery Gaming Facility, and enter into the New Management Agreement; and (iii) ensured that any new Third Party Manager and/or the New Management Agreement are in compliance with any and all statutory requirements, approvals or consents, and any regulatory procedures, including those related to suitability. The Kansas Lottery agrees to co-operate with a Lender in good faith to find a new acceptable Third Party Manager upon any such termination of Manager.
- c. The Kansas Lottery agrees to notify Lender of any material amendments made under Section 59 of this Agreement.
- d. Manager agrees to notify the Lottery of any Lender's contact information and keep it current with the Lottery at all times. Manager's failure to keep a Lender's contact information current will nullify the Kansas Lottery's duty of notice under (a), (b) or (c) of this Section.
- e. The rights of Lender hereunder shall inure to the benefit of a Lender's affiliate, assignee, designee, nominee, subsidiary, or others designated by Lender.
- f. The Kansas Lottery agrees to provide any standard business consents, estoppels or similar instruments reasonably requested by Manager or Lender in connection with any such financing of the Lottery Gaming Enterprise or Lottery Facility Games.

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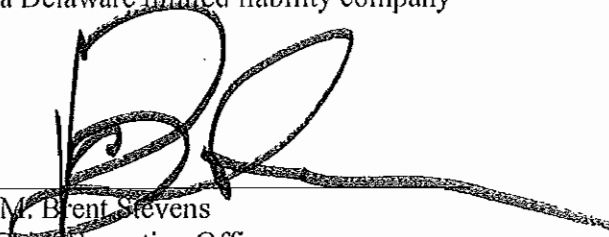
IN WITNESS WHEREOF, the Executive Director, on behalf of the Kansas Lottery, and Manager have caused this Agreement to be executed in their respective names, all as of the date first above written.

THE KANSAS LOTTERY

By:   
Ed Van Petten, Executive Director

Dated: 10-19-10

PENINSULA GAMING PARTNERS, LLC  
a Delaware limited liability company

By:   
Name: M. Brent Stevens  
Title: Chief Executive Officer

Dated: 9-8-10

## **EXHIBIT SCHEDULE**

EXHIBIT A – Environmental Compliance and Indemnification Agreement

EXHIBIT B – Local Endorsement

EXHIBIT C –Expected Construction Sequence

EXHIBIT D –Key Employees

EXHIBIT E– Financing Commitment Description

EXHIBIT F – DA-146a



**EXHIBIT A**

**Environmental Compliance and  
Indemnification Agreement**

**ENVIRONMENTAL COMPLIANCE  
AND INDEMNIFICATION AGREEMENT**

THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (the "Environmental Compliance Agreement"), dated as of [insert date], is given by **Peninsula Gaming Partners, LLC** ("Manager"), a Delaware Limited Liability Company having offices at 600 Star Brewery Dr, Suite 110, Dubuque, IA 52001, and the persons, firms or corporations, if any, identified as Indemnitors at the end of this Environmental Compliance Agreement (collectively "Indemnitors"), to the **Kansas Lottery**, an agency of the State of Kansas having its principal office at 128 N. Kansas Avenue, Topeka, KS 66603-3638.

**RECITALS**

**WHEREAS**, the Manager is the owner of, or is acquiring title to or other interest in, certain real property located in the County of Sumner, State of Kansas and described more fully in Schedule "A" attached and made a part hereof (the "Premises"); and

**WHEREAS**, the Manager is contracting with the Kansas Lottery to be a Lottery Gaming Facility Manager, as that term is defined in the Kansas Expanded Lottery Act, K.S.A. 2007 Supp. 74-8733 through 74-8773, which will consist of a Lottery Gaming Facility and certain Ancillary Lottery Gaming Facility Operations, as referenced in a Lottery Gaming Facility Management Contract dated \_\_\_\_\_ (the "Management Contract"), to which this Environmental Compliance Agreement is attached (collectively referred to as the "Project"); and

**WHEREAS**, the Lottery Gaming Facility Management Contract contemplates that Manager will construct and maintain the Project in which a certain portion will be used to house a Lottery Gaming Facility, the business of which will be owned and operated by the Kansas Lottery ; and

**WHEREAS**, the Kansas Lottery is unwilling to consummate the Lottery Gaming Facility Management Contract unless the Manager and the Indemnitors execute and deliver this Environmental Compliance Agreement to the Kansas Lottery.

**NOW, THEREFORE**, in consideration of the foregoing and to induce the Kansas Lottery to consummate the Lottery Gaming Facility Management Contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Manager and the Indemnitors covenant and agree with the Kansas Lottery as follows:

1. **DEFINITIONS.** All capitalized terms used in this Environmental Compliance Agreement and not defined will have the meanings set forth below.

(a) **Environment** means any water, groundwater, water vapor, land (including land surface or subsurface), soil vapor, air, fish, wildlife, biota, and all other natural resources.

## EXHIBIT A

(b) Environmental Laws mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the Environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances (as defined below) and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

(c) Environmental Permits mean all permits, licenses, approvals, authorizations, consents or registrations required by any applicable Environmental Law in connection with the ownership, use and/or operation of the Premises for the storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances or the sale, transfer or conveyance of the Premises.

(d) Hazardous Substance means any substance (i) the presence of which requires investigation or remediation under any Environmental Law; or (ii) which is or becomes defined as a "hazardous waste", "hazardous substance", "toxic substance", "solid waste", pollutant and/or or contaminant under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. section 9601 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. section 6901 *et seq.*), as amended, the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801 *et seq.*), the Clean Air Act (42 U.S.C. Sections 7401, *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601, *et seq.*), the Clean Water Act, as amended (33 U.S.C. Sections 1251 *et seq.*), the Occupational Safety and Health Act, as amended (29 U.S.C.A. Section 651 *et seq.*), and/or any other applicable Environmental Law or any regulations promulgated under any of the foregoing; or (iii) which is toxic (including, but not limited to, toxic mold), explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Kansas or any political subdivision thereof; or (iv) the presence of which on the Premises causes or threatens to cause hazardous conditions upon the Property or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Premises; or (v) which contains gasoline, diesel fuel or other petroleum hydrocarbons; or (vi) which contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation.

(e) Improvements mean any buildings, structures and other improvements (if any) presently or hereafter located on the Premises.

(f) Indemnitee means the Kansas Lottery, the Kansas Lottery Commission, and the State of Kansas, and their successors and assigns, and their respective officers, directors, employees, agents, representatives, contractors and subcontractors.

(g) Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the Environment (including

## EXHIBIT A

the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance).

2. REPRESENTATIONS AND WARRANTIES: The Manager represents and warrants to the Kansas Lottery that to the best of the Manager's knowledge (without inquiry) and, in each case, except to the extent in compliance with applicable law (including any Environmental Law):

(a) The Premises is not being nor has been used for the storage, treatment, generation, transportation, processing, handling, production, disposal or release of any Hazardous Substance or as a landfill or other solid waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products.

(b) Underground storage tanks are not and have not been located on the Premises, except as set forth in Schedule "B" hereto.

(c) The soil, subsoil, bedrock, soil vapor, surface water and groundwater of the Premises are free of any Hazardous Substances.

(d) There has been no Release nor is there the threat of a Release of any Hazardous Substance on, at or from the Premises, which through soil, subsoil, soil vapor, bedrock, surface water or groundwater migration could come to be located on the Premises, and the Manager has not received any form of notice or inquiry from any federal, state or local governmental agency or authority, any operator, tenant, subtenant, licensee or occupant of the Premises with regard to a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises.

(e) All Environmental Permits necessary for the acquisition, construction, equipping, use or operation of the Premises either have been obtained or shall be obtained prior to the commencement of construction of the Lottery Gaming Facility Enterprise.

(f) No event has occurred with respect to the Premises which, with the passage of time or the giving of notice, or both, would constitute a violation of any applicable Environmental Law or non-compliance with any Environmental Permit.

(g) There are no agreements, consent orders, decrees, judgments, notices of violations, demand letters, license or permit conditions or other orders or directives of any federal, state or local court, governmental agency or authority relating to the past, present or future ownership, use, operation, sale, transfer or conveyance of the Premises which require any change in the present condition of the Premises with respect to Environmental Law or Hazardous Substances or any

## EXHIBIT A

work, repairs, construction, containment, clean-up, investigations, studies, removal or other remedial action or capital expenditures with respect to the Premises with respect to Environmental Law or Hazardous Substances.

(h) There are no actions, suits, claims or proceedings, pending or threatened, which could cause the incurrence of expenses or costs which seek money damages, injunctive relief, investigations, remedial action or any other remedy that arise out of, relate to or result from (i) a violation or alleged violation of any applicable Environmental Law or non-compliance or alleged non-compliance with any Environmental Permit, (ii) the presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises or (iii) human exposure to any Hazardous Substance, to the extent the same arise from the condition of the Premises or the ownership, use, operation, sale, transfer or conveyance thereof.

3. COVENANTS OF MANAGER: The Manager covenants and agrees with the Kansas Lottery (except, in each case, in compliance with applicable law, including Environmental Law):

(a) Except in the ordinary course of the Lottery Gaming Enterprise's business, the Manager shall keep, and shall cause all operators, tenants, subtenants, licensees, invitees and occupants of the Premises to keep, the Premises free of all Hazardous Substances and shall not cause or permit the Premises or any part thereof to be used for the storage, treatment, generation, transportation, processing, handling, production, disposal or release of any Hazardous Substances.

(b) The Manager shall comply with, and shall cause all operators, tenants, subtenants, licensees, invitees and occupants of the Premises to comply with, all applicable Environmental Laws, and shall obtain and comply with, and shall cause all operators, tenants, subtenants, licensees, invitees and occupants of the Premises to obtain and comply with, all Environmental Permits.

(c) Except in the ordinary course of the Lottery Gaming Enterprise's business, the Manager shall not cause or permit any change to be made in the present or intended use of the Premises which would (i) involve the storage, treatment, generation, transportation, processing, handling, production, disposal or release of any Hazardous Substance or the use of the Premises as a landfill or other solid waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (ii) violate any applicable Environmental Law, (iii) constitute non-compliance with any Environmental Permit or (iv) increase the risk of a Release of any Hazardous Substance.

(d) The Manager shall promptly provide the Kansas Lottery with a copy of all notifications which the Manager gives or receives with respect to any past or

## EXHIBIT A

present Release or the threat of a Release of any Hazardous Substance on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises.

(e) The Manager shall undertake and complete or shall cause to be undertaken and completed all investigations, studies, sampling and testing and all removal and other remedial actions necessary to contain, remove and clean up all Hazardous Substances that are determined to be present at the Premises in accordance with all applicable Environmental Laws and all Environmental Permits.

(f) The Manager or its affiliates shall at all reasonable times allow the Kansas Lottery and its officers, employees, agents, representatives, contractors and subcontractors reasonable access to the Premises for the purposes of ascertaining site conditions, including, but not limited to, subsurface conditions; provided, however, that the Kansas Lottery shall not conduct any invasive testing without the prior consent of the Manager.

(g) If at any time the Manager obtains any evidence or information which suggests that potential environmental problems may exist at the Premises, the Kansas Lottery may require that a full or supplemental environmental investigation and environmental assessment report (including a Phase II environmental investigation if recommended by a Phase I environmental investigation) with respect to the Premises of a scope and level of detail satisfactory to the Kansas Lottery to be prepared by an environmental engineer or other qualified person acceptable to the Kansas Lottery, at the Manager's expense. Said investigation may include a physical inspection of the Premises, a visual inspection of any property adjacent to or within the immediate vicinity of the Premises, personnel interviews and a review of all Environmental Permits. If the Kansas Lottery requires, such inspection shall also include a records search and/or subsurface testing for the presence of Hazardous Substances in the soil, subsoil, soil vapor, bedrock, surface water and/or groundwater. If the investigations indicate the presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises other than in compliance with applicable law, including Environmental Law, the Manager shall promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, and other remedial actions, using methods recommended by the engineer or other person who conducted the investigations and acceptable to the appropriate federal, state and local agencies or authorities.

(h) Attached hereto as Schedule "C" is a complete list of all Environmental Permits presently required for the ownership, use or operation of the Premises and the businesses located thereon. The Manager agrees to notify the Kansas Lottery of any additions, deletions, or modifications of any Environmental Permits and the

## EXHIBIT A

list thereof. Upon written request of the Kansas Lottery, the Manager shall furnish true and complete copies of all Environmental Permits.

4. INDEMNIFICATION PROVISIONS: The Manager and the Indemnitors hereby jointly and severally covenant and agree, at their sole cost and expense, to indemnify, protect, defend, and save harmless each and every Indemnitee from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, attorneys' and experts' fees for attorneys and experts selected by the Indemnitee) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against any Indemnitee relating to, resulting from or arising out of (a) the use of the Premises for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance or as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (b) the presence or claimed presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises, (c) the failure to promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean-up and other remedial actions with respect to a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises, (d) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Premises or the ownership, use, operation, sale, transfer or conveyance thereof, (e) a violation of any applicable Environmental Law, (f) non-compliance with any Environmental Permit, (g) a material misrepresentation or inaccuracy in any representation or warranty or a material breach of or failure to perform any covenant made by the Manager in this Environmental Compliance Agreement, and (h) the designation by any state or governmental entity, the United States Environmental Protection Agency or any other governmental authority of an Indemnitee as a party responsible or potentially responsible for the remediation of any condition on the Premises (collectively, the "Indemnified Matters").

The liability of the Manager and the Indemnitors to the Kansas Lottery and each Indemnitee shall be perpetual and shall survive, and shall in no way be limited, abridged, impaired or otherwise affected, by (i) any amendment or modification of any of the Lottery Gaming Facility Management Contract, (ii) the invalidity or unenforceability of any of the terms or provisions of the Lottery Gaming Facility Management Contract, (iii) any applicable statute of limitations, (iv) any investigation or inquiry conducted by or on the behalf of the Kansas Lottery or any other Indemnitee or any information which the Kansas Lottery or any other Indemnitee may have or obtain with respect to the environmental or ecological condition of the Premises, (v) the sale, transfer or conveyance of all or part of the Premises, (vi) the dissolution or liquidation of the Manager, (vii) the death or legal incapacity of any Indemnitor, (viii) the release or discharge, in whole or in part, of the Manager or any Indemnitor in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding, (ix) any other circumstances which might otherwise constitute a legal or equitable release or discharge, in whole or in part, of the Manager under of any Indemnitor under this Environmental Compliance Agreement, (x) the expiration or termination of the Lottery Gaming Facility Management

## EXHIBIT A

Contract or (x) the reconveyance of title to the Premises by the Manager or any other person, whether in accordance with the terms of a lease, by foreclosure or deed in lieu of foreclosure, sale or otherwise.

Notwithstanding anything to the contrary contained herein, neither Manager nor the Indemnitor shall indemnify, protect, defend or save harmless any Indemnitee from and against any damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, reasonable attorneys' and experts' fees for attorneys and experts selected by the Indemnitee) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against any Indemnitee relating to, resulting from or arising out of (i) any such Indemnitee(s)' gross negligence or willful misconduct; or (ii) any circumstances arising from and after the date on which Manager or its affiliates transfers title to the Premises to a third party, whether by sale, foreclosure, deed in lieu of foreclosure or otherwise.

The indemnification agreement contained herein is wholly independent of and in addition to any indemnification agreement given to the Kansas Lottery or any other Indemnitee, as part of the application of the Kansas Expanded Lottery Act or any other applicable statute or regulation.

5. GOVERNING LAW: This Environmental Compliance Agreement shall be governed by, construed in accordance with and enforceable under the laws of the State of Kansas.

6. COUNTERPARTS: This Environmental Compliance Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute but one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument.

7. SUCCESSORS AND ASSIGNS: This Environmental Compliance Agreement shall be binding upon the Manager, its successors and assigns, all subsequent owners of the Premises, the Indemnitors and their respective successors, assigns, executors, administrators, legal representatives, distributees and fiduciaries and shall inure to the benefit of each Indemnitee.

**IN WITNESS WHEREOF**, the Manager and the Indemnitors have caused this Environmental Compliance Agreement to be duly executed as of the day and year first above written.

PENINSULA GAMING PARTNERS, LLC

By: \_\_\_\_\_

Name:



**EXHIBIT A**

Title:

THE KANSAS LOTTERY

By: \_\_\_\_\_  
Ed Van Petten, Executive Director

**EXHIBIT A**

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2010, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

[State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2010 before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

**EXHIBIT A**

**SCHEDULE "A"**  
**(Premises)**

To be provided.

## EXHIBIT A

### SCHEDULE "B" (Underground Storage Tanks)

No underground storage tanks. The site does contain certain capped oil wells (information to be provided).

**EXHIBIT A**

**SCHEDULE "C"**  
**(Environmental Permits)**

To be provided.

# **EXHIBIT B**

## **Local Endorsement**

RESOLUTION NO. 2010- 7

A RESOLUTION OF THE GOVERNING BODY OF MULVANE, KANSAS ENDORSING THE OPERATION OF A LOTTERY GAMING FACILITY BY PENINSULA GAMING PARTNERS, LLC (KANSAS STAR CASINO HOTEL AND EVENT CENTER), IN THE CITY OF MULVANE, SUMNER COUNTY, KANSAS.

WHEREAS, K.S.A. 74-8733, *et seq.*, the Kansas Expanded Lottery Act (the "Act") requires a Resolution of Endorsement from the governing body for any prospective Lottery Gaming Facility Manager whose proposed facility is to be located in the City; and

WHEREAS, Peninsula Gaming Partners, LLC (Kansas Star Casino Hotel and Event Center) has submitted a proposal to the governing body of the City of Mulvane, Sumner County, Kansas for a destination resort gaming facility to be located in the City of Mulvane, Sumner County, Kansas (the "City"); and

WHEREAS, after duly considering all information provided, the governing body has determined that Peninsula Gaming Partners, LLC (Kansas Star Casino Hotel and Event Center) possesses the qualifications and financial resources to operate a Lottery Gaming Facility in the City of Mulvane, Sumner County, Kansas; and

WHEREAS, Peninsula Gaming Partners, LLC (Kansas Star Casino Hotel and Event Center) controls parcel(s) of land which the City believes in good faith to be within the city limits of the City of Mulvane, and proposes this as the location for development and operation of a Lottery Gaming Facility; and

WHEREAS, the governing body of the City has determined the proposed location is well suited to attract tourism and enhance the economic development prospects of the City, Sumner County and of overwhelming benefit to the State of Kansas; and

WHEREAS, to facilitate the location of the South-Central Kansas Lottery Gaming Facility in this gaming zone, the governing body of the City has determined it is in the best interest of the region and State based on the information available and testimony provided at the public hearing, including independent investigations of prospective Lottery Gaming Facility Managers to issue a Resolution of Endorsement at this time.

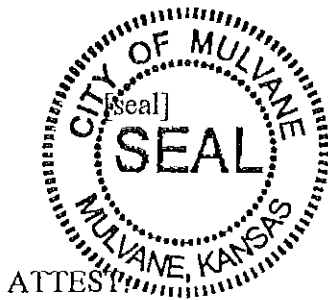
NOW THEREFORE BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF MULVANE, SUMNER COUNTY, KANSAS, AS FOLLOWS:

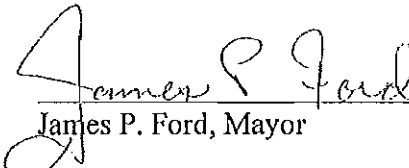
The City of Mulvane, Kansas (the "City") hereby issues Peninsula Gaming Partners, LLC (Kansas Star Casino Hotel and Event Center), including its Application and proposed Management Contract, any and all manner of endorsement required in accordance with Act, as set forth in K.S.A. 74-8734(h)(10).

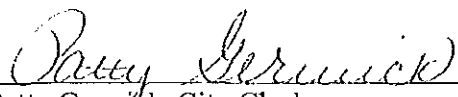
This Endorsement of the City is given in reliance upon the ultimate execution by Peninsula Gaming Partners, LLC of a Development Agreement with the City, in a form satisfactory to the City.

RESOLVED, PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF MULVANE, SUMNER COUNTY, KANSAS, THIS 16<sup>TH</sup> DAY OF AUGUST, 2010.

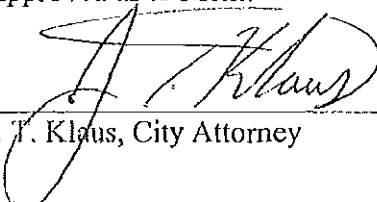
CITY OF MULVANE, KANSAS



  
James P. Ford, Mayor

  
Patty Gerwick, City Clerk

Approved as to Form:

  
J. T. Klaus, City Attorney



## **EXHIBIT C**

### **Expected Construction Sequence**

The Project Schedules included in Applicant's Application for Gaming Facility Manager for the State of Kansas for the South Central Gaming Zone, as amended (the "Application") and attached to this Exhibit C show the anticipated dates for completion of the various phases of the Applicant's casino project (the "Project").

For purposes of clarification, and notwithstanding any statements to the contrary, including but not limited to provisions in the Application, the Applicant's Lottery Gaming Facility Management Contract, or other public statements, the following provisions shall control Applicant's legal obligations with respect to timing of construction of the Project:

Phase 1a:

Phase 1a as described in the Application shall be completed within 13 months of the Effective Date.

Phase 1b:

Phase 1b as described in the Application shall be completed within 24 months of the Effective Date.

Phase 2:

Phase 2 as described in the Application shall be completed and Applicant shall have satisfied the minimum investment in infrastructure pursuant to the Kansas Expanded Lottery Act no later than 48 months from the Effective Date.

Applicant will use its commercially reasonable efforts to work with a Third Party Hotel developer towards the construction of the additional Third Party Hotel contemplated in Phase 2, however, construction of such additional Third Party Hotel will be entirely dependent upon prevailing market forces.

Due to anticipated demand for Phase 2 of Applicant's Project, Applicant is seriously considering, and reserves the right hereunder to accelerate construction of Phase 2 so that it will be constructed simultaneously with and completed at the same time as Phase 1b.

Phase 3:

Phase 3 as described in the Application may or may not be constructed, and shall be subject to change, at the sole discretion of Applicant, based on prevailing market conditions.

# Project Schedules

KANSAS STAR

casino \* hotel \* event center

2010							2011							2012															
JUL	AUG	SEP	OCT	NOV	DEC		JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV
Phase 1A																													

# Project Schedules

KANSAS  STAR

casino \* hotel \* event center

[illegible]

Revised: 09/02/10

# **EXHIBIT D**

## **Key Employees**

## EXHIBIT D

Consistent with Exhibit V(a)(6) to its Application for Lottery Gaming Facility Manager for the State of Kansas for the South Central Zone, Applicant identifies the following positions as “Key Employees”:

- General Manager
- Slot Director
- Director of Finance
- Director of Food and Beverage
- Director of Facilities
- Director of Security
- Director of Surveillance
- Director of Table Games Operations
- Director of Human Resources
- Director of Information Technology

## **EXHIBIT E**

### **Finance Commitment Description**

**EXHIBIT E**

*Note: Capitalized terms used in this Exhibit E but not otherwise defined herein shall have the meaning set forth in Applicant's Application for Lottery Gaming Facility Manager on behalf of the State of Kansas for the South Central Gaming Zone, as amended (the "Application") or Applicant's Lottery Gaming Facility Management Contract (the "Contract").*

The following table outlines \$283 million of financing sources available to Applicant to finance its proposed Lottery Gaming Enterprise. Applicant has arranged the ownership, development and operation of hotels at two of its existing properties by third-party hotel companies. As such, Applicant expects to arrange for a third-party hotel company to own, develop and operate the hotel contemplated by Phase 1 of its project. Nevertheless, Applicant has sufficient funds to complete the Phase 1 hotel itself.

<b><u>Sources of Debt Financing</u></b>	
\$42 million equipment and vendor financing	Based on past experience, Applicant expects that its construction plans will reasonably qualify it for \$15.5 million of equipment financing and \$26.5 million of slot vendor financing.
\$130 million senior secured credit facilities	Applicant has an existing undrawn \$58.5 million revolving credit facility. A term sheet for an additional term loan facility of \$71.5 million is attached to the Application as Exhibit IV(e)(7)(i).
\$50 – \$100 million bond financing	Applicant's existing bond indentures allow it the ability to issue additional bonds, including \$50 million of unsecured debt without limitations. Applicant has a term sheet from for the issuance of an additional \$50 million to \$100 million of our 10.75% senior unsecured bonds attached to its Application as Exhibit IV(e)(7)(ii).
<b><u>Sources of Equity Financing</u></b>	
\$65 million cash flow from existing operations	Applicant's existing properties generate gross cash flow of more than \$100 million annually. Applicant expects that during the application process and Phase 1 construction of Kansas Star, it will have significantly more than \$65 million of cash available from its existing properties to invest.
<b>\$283 million total available sources</b>	



At the time of final approval, Applicant will have either (1) completed its debt financings and/or (2) have commitments in place for such debt financing, that may include the above or additional financing methods.

None of the construction funding sources will be derived from state or local tax revenues or tax-exempt financing. There will be no use of eminent domain for the acquisition of any real estate used for developing Kansas Star.

Applicant's available financing sources exceed its Phase 1 construction budget by \$76.9 million. Applicant also generates more than \$30 million of available cash flow annually from its existing operations.

**EXHIBIT F**

**DA-146a Mandatory**

**Attachment**

## CONTRACTUAL PROVISIONS ATTACHMENT

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
3. **Termination Due To Lack Of Funding Appropriation:** If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.
4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.  
  
Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
7. **Arbitration, Damages, Warranties:** ~~Notwithstanding any language to the contrary, Except as otherwise provided for in the Lottery Gaming Facility Management Contract,~~ no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.
8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."

<b>TIMELINE OF PROJECT</b>		
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>		
<b>Proposed Casino Name:</b>	Kansas Star	Proposed Casino Address or Location: There are 2 proposed sites. 1. I35 Exit 33 at the Mulvane Interchange 2. Intersection of Oliver and K53
	<b>DATE</b>	<b>COMMENTS OR DESCRIPTIONS</b>
<b>Estimated date of awarding of contract</b>	Mid December 2010	
<b>Estimated date for approval of all building plans and variances</b>	Zoning and special use permits obtained	
<b>Estimated date for Ground-breaking</b>	February 2011	
<b>If project is to be phased, please describe the phases</b>		<p>The Kansas Star has a three phase growth plan. It would build an interim facility which would take nine months to complete. This strategy would begin generating revenue and create new employment opportunities for the State of Kansas in the shortest possible time frame. The interim facility would open with 1,310 slot machines, 32 table games, a 50 seat snack bar and several food and beverage kiosks.</p> <p>Construction of Phase 1b begins approximately 3 months after the start of Phase 1. At that time the two phases would progress simultaneously. Phase 1B will consist of a high limit slots area, 1,500 slot machines, 42 table games, dedicated 10 table poker room, buffet, steakhouse, food court, hotel and 100,000 square foot 3,000 seat indoor equine arena with the ability to hold 4,200 for events.</p> <p>Phase 2 will be completed 2 years following completion of Phase 1B and will have 2,000 slot machines, 50 table games, 300 hotel rooms, sports bar, RV park and an expanded equine complex.</p>
<b>Completion date for Phase 1a</b>	December 2011	Phase 1A will be casino operations in a permanent 100,000 square foot building that will house the event center
<b>Completion date for Phase 1b</b>	December 2012	
<b>Completion date for Phase 2</b>	December 2014	
<b>If project is going to involve a temporary gaming facility, please note estimated date of opening of the temporary and the permanent facility</b>		
<b>Estimated Opening Date for temporary facility</b>	December 2011	Phase 1A will be casino operations in a permanent 100,000 square foot building that will house the event center
<b>Estimated Opening Date for permanent facility</b>	December 2012	

DESCRIPTION OF CASINO AND OTHER PHYSICAL FACILITIES						
Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center						
		Quantity	Units of Measure	COMMENTS		
<b>CASINO</b>						
Square footage		63,700	#	Phase 1a will be 44,100 SF, Phase 1b will be 47,200 and Phase 2 expands to 63,700		
Number of slot machines		2,000	#	Phase 1a will open with 1,310, and Phase 1b will increase to 1,500		
Number of table games		50	#	Phase 1a will open with 32, Phase 1b will open with 42 table games		
Types of table games offered:						
	Blackjack	27	#			
	Craps	6	#			
	Roulette	3	#			
	Pai Gow Poker	3	#			
	Other tables	11	#			
Poker		10	#	10 Table dedicated poker room		
Other gaming offerings (specify):						
<b>HOTEL</b>						
Total square footage of public areas		188,000	#	Total hotel square footage		
Number of standard rooms		260	#			
Number of premium rooms		40	#			
Square footage of standard room		450	#			
Square footage of premium room (average)		900	#			
				DESCRIPTION		
Amenities in standard rooms (specify):				Internet, cable, phone, coffee/tea makers, microwave, refrigerators, news paper		
Additional amenities in premium rooms (specify):				Separated rooms, arm chair, wet bar, work station and additional TV.		
Additional amenities in public areas (specify):				Pool, spa, business center, coffee, fitness center, laundry, 2 meeting rooms		
<b>RESTAURANTS PHASE 1B</b>						
Number of restaurants and eating outlets		22,250	5			
Specify theme, avg daily covers, and avg spend per cover of each restaurant:		SQUARE FOOTAGE	SEATING CAPACITY	THEME	Covers	Avg Spend per cover
Buffet		12,500	250	Variety of options and prepared right before your eyes	390,646	\$ 11.39
Steakhouse		5,800	140	The steakhouse has the style and warmth that makes it perfect for an evening with friends or an intimate dinner for two with a cozy, fireside atmosphere.	27,076	\$ 43.19
Snack Bar		500	0	Place to pick up a quick sandwich or snack	101,343	\$ 7.00
2 outlet food court		3,450	40	Leased	154,706	\$ 8.50
<b>BARS AND LOUNGES</b>						
Number of bars and lounges		2	6,000	185		
Specify theme & size of each bar		SQUARE FOOTAGE	SEATING CAPACITY	THEME		
Casino Bar with Stage		2,500	35	Get in touch with nature. We got the environment in mind with this beautifully decorated bar made from reclaimed wood and lumber.		
Sports Bar		3,500	150	Your favorite place to watch the big game, play pool and darts with friends		
Are any of the food and beverage outlets going to be leased or franchised to an outside vendor? If yes, what will be the revenue sharing, or "commission" structure.				The 2 outlets in the food court will be leased. Under that scenario, the "commission" structure will be either a % of revenue or a flat monthly fee with a provision for reimbursing the Kansas Star for certain operating expenses. All of the other food and beverage outlets will be owned and operated by the Kansas Star.		

<b>ENTERTAINMENT VENUES</b>						
<b>Describe and note size of each venue</b>		<b>SQUARE FOOTAGE</b>	<b>SEATING CAPACITY</b>	<b>DESCRIPTION</b>		
Indoor Event Center		100,000	3000/4200	The arena will hold 3,000 for seated events and 4,200 for events such as concerts.		
<b>EVENT VENUES</b>						
<b>Describe and note size of each venue</b>		<b>SQUARE FOOTAGE</b>	<b>SEATING CAPACITY</b>	<b>DESCRIPTION</b>		
Equine Support Center		251,198	1,500	Equine/Rodeo complex designed to host events and attract out-of-town attendees.		
<b>CONVENTION FACILITIES</b>						
Square footage of Convention Space			#	65,400		
Square footage of Pre Function & Back of House Space			#	31,700		
Number of Break-out Rooms			#	(2) 1,200 SF meeting rooms in the hotel		
<b>Capacity of Break-out rooms</b>		<b>School- room seating</b>	<b>Theater seating</b>			
<b>SPORTS AND RECREATION FACILITIES</b>						
<b>Description of Sports/Recreation Offerings</b>		<b>CUSTOMER CAPACITY</b>	<b>SQUARE FOOTAGE</b>	<b>DESCRIPTION</b>		
RV Park		100	100,000	100 space RV park with water and electric hook-up		
<b>RETAIL OUTLETS</b>						
<b>Description and size of Retail Outlets</b>			<b>SQUARE FOOTAGE</b>	<b>DESCRIPTION</b>		
Gift Shop			650			
<b>PARKING FACILITIES</b>						
Number of surface parking spaces		3,965	#			
Total paved square footage for surface parking		1,508,000	#	There is an additional (24-acres) 1,045,440 SF of overflow parking at the Equine Center		
Number of enclosed parking spaces		0	#			
Total square footage for enclosed parking		0	#			
Number of valet parking spaces		200	#			
Number of employee parking spaces		295	#			
Number of parking spaces for Recreational Vehicles		100	#			

VISITATION AND SPENDING PATTERNS DURING OPERATIONS' PHASE OF LOTTERY GAMING FACILITY						
Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center						
Please submit 5-year projections, starting from the date of opening						
PROJECTED DATE OF OPENING:	12/1/2010					
	Unit of Measure					
		2012	2013	2014	2015	2016
<b>RESIDENTS</b>						
<b>Resident population (within 100 miles)</b>						
Number of adult residents	#	969,710	977,061	984,795	992,949	1,001,528
Residential gaming penetration rate *	%	30.1%	31.3%	31.3%	31.4%	31.4%
Market penetration rate**	%	30.1%	36.3%	36.9%	40.8%	41.6%
Visits per gaming resident per year	#	5.9	6.4	6.9	7.5	7.6
Total resident gaming visits per year	#	1,727,792	1,947,410	2,132,782	2,344,917	2,407,199
Resident non-gaming visits per year***	#	-	98,369	108,988	186,397	203,584
Total Residential visits per year	#	1,727,792	2,045,779	2,241,770	2,531,314	2,610,783
Residential gaming spend per visit	\$	\$ 65.34	\$ 66.35	\$ 68.56	\$ 70.08	\$ 72.33
Residential gamer non-gaming spend per diem	\$	\$ 2.44	\$ 5.36	\$ 5.48	\$ 5.40	\$ 5.52
Per diem gaming resident	\$	\$ 67.79	\$ 71.71	\$ 74.05	\$ 75.48	\$ 77.84
Per diem non-gaming resident	\$	\$ -	\$ 27.00	\$ 27.81	\$ 28.64	\$ 29.50
Total Residential Gaming Spend per annum	\$	\$ 112,900,817	\$ 129,217,907	\$ 146,229,083	\$ 164,327,336	\$ 174,104,835
Total Residential Non-Gaming Spend per annum	\$	\$ 4,218,200	\$ 13,089,102	\$ 14,725,943	\$ 18,008,145	\$ 19,282,909
* Indicates only resident gaming customers						
** Includes all residents						
*** Resident non-gaming visitors						

	Unit of Measure					
		2012	2013	2014	2015	2016
<b>TOURISTS (residence more than 100 miles away)</b>						
Tourist gaming visits per year*	#	99,911	162,018	169,012	225,628	240,461
Tourist non-gaming visits per year**	#	-	24,592	27,247	46,599	50,896
Total Tourist visits per year	#	99,911	186,610	196,259	272,227	291,357
Tourist gaming spend per diem	\$	\$ 60.12	\$ 113.02	\$ 115.87	\$ 117.01	\$ 117.43
Tourist gamer non-gaming spend per diem	\$	\$ 2.44	\$ 8.38	\$ 8.56	\$ 8.51	\$ 8.71
Tourist non-gamer spend per diem	\$	\$ -	\$ 40.00	\$ 41.20	\$ 42.44	\$ 43.71
Total Tourist Gaming Spend per annum	\$	\$ 6,007,106	\$ 18,311,465	\$ 19,583,472	\$ 26,400,102	\$ 28,237,904
Total Tourist Non-Gaming Spend per annum	\$	\$ 243,921	\$ 2,342,204	\$ 2,570,083	\$ 3,898,407	\$ 4,318,524
<b>TOTAL VISITATION PER YEAR</b>	#	1,827,703	2,232,389	2,438,029	2,803,541	2,902,140
<b>TOTAL GAMING SPEND PER YEAR</b>	\$	\$ 118,907,923	\$ 147,529,372	\$ 165,812,555	\$ 190,727,438	\$ 202,342,739
<b>TOTAL NON-GAMING SPEND PER YEAR</b>	\$	\$ 4,462,121	\$ 15,431,307	\$ 17,296,026	\$ 21,906,553	\$ 23,601,434
* Indicates gaming customers						
** Customers who do not game						
<b>Tourist Visitors</b>						
<b>Total number of tourists</b>						
<b>Leisure tourists</b>	#	99,911	159,505	166,411	220,602	235,435
<b>Business/conference tourists</b>	#	-	2,513	2,602	5,026	5,026
Leisure tourists - Please specify top five source markets						
Other Kansas	#	69,731	36,324	41,143	58,963	69,315
Oklahoma	#	24,386	61,430	63,116	82,344	85,964
Nebraska	#	-	7,500	7,500	9,500	9,500
Colorado	#	-	7,500	7,500	9,500	9,500
Missouri	#	2,198	11,009	11,161	14,353	14,680
Other	#	3,597	35,742	35,991	45,942	46,476
Business/Conference Tourists - Please specify top five source markets						
Other Kansas	#	-	1,754	1,816	3,508	3,508
Oklahoma	#	-	613	635	1,227	1,227
Nebraska	#	-	-	-	-	-
Colorado	#	-	-	-	-	-
Missouri	#	-	55	57	111	111
Other	#	-	90	94	181	181



	Unit of Measure					
		2012	2013	2014	2015	2016
<b>HOTEL GUESTS</b>						
Number of hotel rooms	#	-	150	150	300	300
Occupancy rate	%	0%	85%	88%	85%	85%
Visitors per room	#	-	1.8	1.8	1.8	1.8
Total hotel guests per year	#	-	83,768	86,724	167,535	167,535
Average room rate	\$		\$ 75	\$ 78	\$ 81	\$ 84
Percentage of hotel guests who are residents (within 100 miles)	%	0%	26%	26%	30%	30%
Percentage of hotel guests who are tourists	%	0%	74%	74%	70%	70%
Total hotel revenues per year	\$	\$ -	\$ 3,490,313	\$ 3,758,040	\$ 7,550,244	\$ 7,852,254
Total gaming spend by hotel guests per year	\$	\$ -	\$ 19,671,960	\$ 20,977,252	\$ 41,739,964	\$ 42,992,163
Total non-gaming non-hotel spend by hotel guests per year	\$	\$ -	\$ 758,006	\$ 803,168	\$ 1,527,298	\$ 1,563,936
<b>TOTAL SPEND BY HOTEL GUESTS PER YEAR</b>	\$	\$ -	\$ 23,920,278	\$ 25,538,460	\$ 50,817,506	\$ 52,408,353
<b>LEISURE HOTEL GUESTS</b>						
Visitors per room	#	-	1.85	1.85	1.85	1.85
Total leisure guests per year	#	-	81,254	84,122	162,509	162,509
Average room rate	\$	\$ -	\$ 75	\$ 78	\$ 81	\$ 84
Percentage of leisure guests who are residents	%	0%	26%	26%	30%	30%
Percentage of leisure guests who are tourists	%	0%	74%	74%	70%	70%
Total leisure hotel revenues per year	\$	\$ -	\$ 3,385,603	\$ 3,645,299	\$ 7,323,737	\$ 7,616,686
Total gaming spend by leisure guests per year	\$	\$ -	\$ 19,140,817	\$ 20,410,866	\$ 40,612,985	\$ 41,831,375
Total other non-gaming leisure spend by leisure guests per year	\$	\$ -	\$ 735,266	\$ 779,073	\$ 1,481,479	\$ 1,517,018
<b>TOTAL SPEND BY LEISURE HOTEL GUESTS PER YEAR</b>	\$	\$ -	\$ 23,261,686	\$ 24,835,238	\$ 49,418,201	\$ 50,965,079
<b>BUSINESS HOTEL GUESTS</b>						
Visitors per room	#	-	1.00	1.00	1.00	1.00
Total business hotel guests per year	\$	-	2,513	2,602	5,026	5,026
Average room rate	\$	\$ -	75	78	81	84
Percentage of business hotel guests who are residents	%	0%	26%	26%	30%	30%
Percentage of business hotel guests who are tourists	%	0%	74%	74%	70%	70%
Total business hotel revenues per year	\$	\$ -	104,709	112,741	226,507	235,568
Total gaming spend by business hotel guests per year	\$	\$ -	\$ 531,143	\$ 566,386	\$ 1,126,979	\$ 1,160,788
Total other non-gaming spend by business hotel guests per year	\$	\$ -	\$ 22,740	\$ 24,095	\$ 45,819	\$ 46,918
<b>TOTAL SPEND BY BUSINESS HOTEL GUESTS PER YEAR</b>	\$	\$ -	\$ 658,592	\$ 703,222	\$ 1,399,305	\$ 1,443,274
* Separate from Leisure Hotel Spend						
** Separate from Business Hotel Spend						

CHANGES IN SPENDING PATTERNS DUE TO LOTTERY GAMING FACILITY DURING OPERATIONS PHASE						
Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center						
Please submit 5-year projections, starting from the date of opening						
PROJECTED DATE OF OPENING:	12/1/2011					
	Unit of Measure					
		2012	2013	2014	2015	2016
Annual Spending by Residents at the Lottery Gaming Facility						
Total spending by residents per year (Note: distinguish between residents who gamble (Resident Gaming Visitors) and residents who do not gamble (Resident Non-Gaming Visitors))						
Resident Gaming Visitors *	Trips	1,727,792	1,947,410	2,132,782	2,344,917	2,407,199
Accommodation	\$	-	-	-	-	-
Food & Beverage	\$	\$ 3,656,160	\$ 8,854,083	\$ 10,003,362	\$ 10,919,612	\$ 11,465,198
Retail	\$	\$ -	\$ 935,588	\$ 966,367	\$ 951,683	\$ 972,081
Gaming	\$	\$ 112,900,817	\$ 129,217,907	\$ 146,229,083	\$ 164,327,336	\$ 174,104,835
Tickets to events, concerts, shows	\$	\$ -	\$ -	\$ -	\$ -	\$ -
Other spending	\$	\$ 562,039	\$ 643,481	\$ 725,262	\$ 797,634	\$ 839,173
TOTAL spending by gaming visitors (residents)	\$	\$ 117,119,017	\$ 139,651,060	\$ 157,924,074	\$ 176,996,265	\$ 187,381,286
		-	-	-	-	-
Resident Non-Gaming Visitors	Trips	-	98,369	108,988	186,397	203,584
Accommodation	\$	\$ -	\$ -	\$ -	\$ -	\$ -
Food & Beverage	\$	\$ -	\$ 116,974	\$ 138,071	\$ 256,444	\$ 291,740
Retail	\$	\$ -	\$ 47,259	\$ 49,383	\$ 75,649	\$ 82,212
Tickets to events, concerts, shows	\$	\$ -	\$ 2,459,213	\$ 2,806,437	\$ 4,943,718	\$ 5,561,535
Ticketed attractions	\$	\$ -	\$ -	\$ -	\$ -	\$ -
Other spending	\$	\$ -	\$ 32,504	\$ 37,062	\$ 63,404	\$ 70,971
TOTAL spending by non gaming visitors (residents)	\$	\$ -	\$ 2,655,950	\$ 3,030,952	\$ 5,339,216	\$ 6,006,458
		-	-	-	-	-
Total Spending by Residents						
Gaming	\$	\$ 112,900,817	\$ 129,217,907	\$ 146,229,083	\$ 164,327,336	\$ 174,104,835
Non Gaming	\$	\$ 4,218,200	\$ 13,089,102	\$ 14,725,943	\$ 18,008,145	\$ 19,282,909
TOTAL SPENDING BY RESIDENTS AT LOTTERY GAMING FACILITY	\$	\$ 117,119,017	\$ 142,307,009	\$ 160,955,026	\$ 182,335,481	\$ 193,387,744
* Resident visitors here includes both Leisure and Business Resident visitors						

	Unit of Measure					
		2012	2013	2014	2015	2016
<b>SOURCES OF EXPENDITURES AT LOTTERY GAMING FACILITY: For the following questions, provide your best estimates, based on your economic models</b>						
Percent of Spend that would have occurred within the region*	%	58.5%	59.4%	59.4%	59.4%	58.9%
Percent of Spend that would have taken place outside the region**	%	18.1%	24.4%	24.4%	24.4%	29.3%
Percent of Spend that comes from new income generated in the region***	%	59.6%	65.0%	65.0%	65.0%	70.4%
* What percent of residents' total spend would have taken place within the 100-mile radius if the LGF facility did not exist						
**Without an LGF, what percent would have been spent outside the 100-mile radius						
***Percent of total spending by residents that comes from income generated by the LGF and its multiplier effects						
<b>Tourist Gaming Visitors</b>	<b>Trips</b>	<b>99,911</b>	<b>162,018</b>	<b>169,012</b>	<b>225,628</b>	<b>240,461</b>
Accommodation	\$	\$ -	\$ -	\$ -	\$ -	\$ -
Food & Beverage	\$	\$ 211,421	\$ 1,227,146	\$ 1,313,455	\$ 1,752,601	\$ 1,912,979
Retail	\$	\$ -	\$ 77,838	\$ 76,580	\$ 91,571	\$ 97,104
Gaming	\$	\$ 6,007,106	\$ 18,311,465	\$ 19,583,472	\$ 26,400,102	\$ 28,237,904
Tickets to events, concerts, shows	\$	\$ -	\$ -	\$ -	\$ -	\$ -
Other spending	\$	\$ 32,500	\$ 53,536	\$ 57,473	\$ 76,748	\$ 83,827
TOTAL spending by gaming visitors (tourists)	\$	\$ 6,251,027	\$ 19,669,985	\$ 21,030,980	\$ 28,321,022	\$ 30,331,814
<b>Tourist Non-Gaming Visitors</b>	<b>Trips</b>	<b>-</b>	<b>24,592</b>	<b>27,247</b>	<b>46,599</b>	<b>50,896</b>
Accommodation	\$	\$ -	\$ -	\$ -	\$ -	\$ -
Food & Beverage	\$	\$ -	\$ 348,941	\$ 399,355	\$ 706,795	\$ 795,935
Retail	\$	\$ -	\$ 11,815	\$ 12,346	\$ 18,912	\$ 20,553
Gaming	\$	\$ -	\$ -	\$ -	\$ -	\$ -
Tickets to events, concerts, shows	\$	\$ -	\$ 614,803	\$ 701,609	\$ 1,235,930	\$ 1,390,384
Other spending	\$	\$ -	\$ 8,126	\$ 9,265	\$ 15,851	\$ 17,743
TOTAL spending by non-gaming visitors (tourists)	\$	\$ -	\$ 983,685	\$ 1,122,575	\$ 1,977,487	\$ 2,224,614
<b>TOTAL SPENDING BY TOURISTS AT LOTTERY GAMING FACILITY</b>		<b>\$ 6,251,027</b>	<b>\$ 20,653,670</b>	<b>\$ 22,153,555</b>	<b>\$ 30,298,510</b>	<b>\$ 32,556,428</b>

	Unit of Measure					
		2012	2013	2014	2015	2016
<b>SOURCES OF EXPENDITURES AT LOTTERY GAMING FACILITY:</b> For the following questions, provide your best estimates, based on your economic models						
What proportion of Tourist visitors would not have visited the region if the Lottery Gaming Facility did not exist?	%	54.9%	74.6%	75.8%	82.6%	81.3%
What proportion of Tourist visitor spending would not have occurred within the region if the Lottery Gaming Facility did not exist?	%	54.9%	74.6%	75.8%	82.6%	81.3%
Please provide your estimate of induced spending by resident visitors to the LGF (import substitution)	\$	\$ 69,770,672	\$ 92,513,535	\$ 104,636,578	\$ 118,535,974	\$ 136,213,757
Please provide your estimate of direct spending by tourist visitors to the LGF (newly injected spending)	\$	\$ 3,432,875	\$ 15,403,600	\$ 16,799,081	\$ 25,018,997	\$ 26,460,882
Please provide your estimate of induced spending by tourist visitors to the LGF (newly injected spending to the region but not at the LGF)	\$	\$ -	\$ 5,566,995	\$ 6,131,540	\$ 9,539,249	\$ 10,350,584
Please provide your estimate of an appropriate expenditure multiplier for the region	#	1.81	1.81	1.81	1.81	1.81
<b>TOTAL DIRECT, INDIRECT, AND INDUCED INCREASES IN SPENDING IN THE REGION, PER YEAR (SPEND)</b>	\$	\$ 132,498,420	\$ 205,406,276	\$ 230,896,630	\$ 277,100,536	\$ 313,175,654
<b>ESTIMATED AGGREGATE PERSONAL INCOME IN THE REGION (API)</b>	\$	\$ 30,176,676,581	\$ 31,081,976,879	\$ 32,014,436,185	\$ 32,974,869,271	\$ 33,964,115,349
<b>RATIO OF SPEND/API</b>	#	0.00	0.01	0.01	0.01	0.01
Note: Tourist visitors here includes both Leisure and Business Tourist visitors						

PUBLIC SECTOR IMPACTS OF LGF										
Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center										
			2011	2012	2013	2014	2015	2016		
<b>Population Growth</b>										
		Units of Measure								
# of Construction Employees who will be new residents to the area		#	12	12	9	9	0			
# of LGF (operating) employees who will be new residents to the area		#	30	21	21	21	21			
<b>Infrastructure Costs</b>										
Roads/Streets Improvements		\$	7,540,000	-	-	-	-			
% Paid by Developer		%	100	100	100	100	100			
% Paid by Public Sector		%	-	-	-	-	-			
Water/Sewer Improvements		\$	5,398,400							
% Paid by Developer		%	100							
% Paid by Public Sector		%								
Storm Drains		\$	-	-	-	-	-			
% Paid by Developer		%	100	100	100	100	100			
% Paid by Public Sector		%	0	0	0	0	0			
Law Enforcement Building, New or Improved		\$	500,000	TBD	TBD	TBD	TBD			
% Paid by Developer		%	100	100	100	100	100			
% Paid by Public Sector		%	0	0	0	0	0			
Fire Station, New or Improved		\$	Included in the Law Enforcement Building Cost Above							
% Paid by Developer		%	100	100	100	100	100			
% Paid by Public Sector		%	0	0	0	0	0			

			2011	2012	2013	2014	2015	2016		
<b><u>Operating Costs</u></b>										
<b><u>School System</u></b>										
# of Additional K-12 students		#	14	11	10	10	8			
Estimated number of additional K-12 teachers		#	0	0	0	0	0			
K-12 support staff		#	0	0	0	0	0			
Estimated cost of capital construction		#	N/A	N/A	N/A	N/A	N/A			
Estimated cost of additional rolling stock		\$	N/A	N/A	N/A	N/A	N/A			
<b><u>Law Enforcement</u></b>										
Estimated # of add't personnel										
Uniform		#	2	2	2	2	2			
Non-Uniform		#	0	0	0	0	0			
Estimated salary/benefits										
Uniform		\$	21,414	85,654	88,224	93,540	96,346			
Non-Uniform		\$	0	0	0	0	0			
Estimated add't non-salary expense (services/supplies)		\$	250	1,000	1,000	1,000	1,000			
Estimated add't rolling stock expense		\$	250	1,000	1,000	1,000	1,000			
Estimated add't capital outlay expense (computers, equipment)		\$	3,000	3,000	3,000	3,000	3,000			

			2011	2012	2013	2014	2015	2016		
<u>Fire Protection</u>										
Estimated # of add't personnel										
Uniform		#	2	2	2	2	2			
Non-Uniform		#	0	0	0	0	0			
Estimated salary/benefits										
Uniform		\$	21,414	85,654	88,224	93,540	96,346			
Non-Uniform		\$	0	0	0	0	0			
Estimated add't non-salary expense (services/supplies)		\$	250	1,000	1,000	1,000	1,000			
Estimated add't rolling stock expense		\$	250	1,000	1,000	1,000	1,000			
Estimated add't capital outlay expense (computers, equipment)		\$	2,000	2,000	2,000	2,000	2,000			
<u>Ambulance Service</u>										
Estimated # of add't personnel										
Uniform		#	3	3	3	3	3			
Non-Uniform		#	0	0	0	0	0			
Estimated salary/benefits										
Uniform		\$	35,802	143,208	147,504	151,929	156,487			
Non-Uniform		\$								
Estimated add't non-salary expense (services/supplies)		\$	5,000	20,000	20,000	20,000	20,000			
Estimated add't rolling stock expense		\$	5,000	20,000	20,000	20,000	20,000			
Estimated add't capital outlay expense (computers, equipment)		\$	10,000	5,000	5,000	5,000	5,000			

			2011	2012	2013	2014	2015	2016		
<b>Public Sector Revenue</b>										
Change in Ad Valorem Tax (Property Tax)										
State		\$		83,874	148,092	152,534	198,402	204,354		
County		\$		880,679	1,554,961	1,601,610	2,083,222	2,145,719		
City		\$		1,132,302	1,999,236	2,059,213	2,678,428	2,758,781		
Additional Sales and Use Tax										
State	6.30%	\$		217,732	710,781	785,170	1,025,716	1,106,871		
County	1.00%	\$		34,561	112,822	124,630	162,812	175,694		
Construction	7.30%	\$	4,773,708	2,152,844		2,777,745				
LGF Gaming Revenue										
Exp. Lottery Act Revenue Fund	22%	\$		26,159,743	32,456,462	36,478,762	41,960,036	44,515,403		
Problem Gambling Fund	2%	\$		2,378,158	2,950,587	3,316,251	3,814,549	4,046,855		
Cities	2%	\$		2,378,158	2,950,587	3,316,251	3,814,549	4,046,855		
County	1%	\$		1,189,079	1,475,294	1,658,126	1,907,274	2,023,427		
Additional Lodging Tax		\$		0	41,883	43,139	44,434	88,867		
Additional State Income Tax		\$		20,000	20,000	20,000	20,000	20,000		
Building Fees		\$		0	0	0	0	0		
K-12 State Aid		\$		1,500,000	1,500,000	1,500,000	1,500,000	1,500,000		
Developer Cash Contribution		\$		0	0	0	0	0		
Developer In-Kind Contribution		\$	12,938,400	0	0	0	0	0		



EMPLOYMENT INFORMATION DURING OPERATIONS' PHASE OF LOTTERY GAMING FACILITY						
Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center						
Please submit 5-year projections, starting from the date of opening						
PROJECTED DATE OF OPENING:	12/1/2011					
	Unit of Measure					
		2012	2013	2014	2015	2016
No. of FTE Workers employed within the Lottery Gaming Facility	#					
General and Administrative						
Professionals, Managers, Executives and Technicians	#	13	14	14	15	15
Clerical Workers, Sales and Service Workers	#	5	5	5	5	5
Production and Transport Operators, Laborers and Cleaners	#					
Casino						
Professionals, Managers, Executives and Technicians	#	61	77	77	80	82
Dealers and game supervisors	#	138	186	186	192	196
Clerical Workers, Sales and Hosts	#	46	54	54	54	54
Security and surveillance	#	61	72	72	74	74
Cleaners	#	32	36	36	37	37
Other	#	60	73	73	76	76
Hotel (constructed by third party)						
Professionals, Managers, Executives and Technicians	#		1	1	1	1
Clerical Workers, Sales and Marketing Staff	#		12	12	24	24
Room cleaners, housekeeping supervisors	#		24	24	48	48
Other	#		-	-	-	-
Food and Beverage						
Professionals, Chefs, Managers, Executives and Technicians	#	10	29	29	31	31
Clerical Workers, Sales and Service Workers	#	1	1	1	1	1
Food preparers and servers, Hosting staff, and Cleaners	#	39	124	124	128	130
Other	#	5	24	24	24	24
Other (including convention, entertainment, retail, etc.)						
Professionals, Managers, Executives and Technicians	#	2	3	3	3	3
Clerical Workers, Compliance, Accounting, and Sales	#					
Human Resources	#	2	3	3	3	3
Other	#		54	54	60	60
Others (please specify)						
Professionals, Managers, Executives and Technicians	#	6	6	6	6	6
Clerical Workers, Sales and Service Workers	#					
Production and Transport Operators, Laborers and Cleaners	#					
TOTAL EMPLOYED BY THE LGF	#	481	798	798	862	870
FTE=full time equivalent						

PAYROLL INFORMATION DURING OPERATIONS' PHASE OF LOTTERY GAMING FACILITY						
Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center						
Please submit 5-year projections, starting from the date of opening						
PROJECTED DATE OF OPENING:	12/1/2011					
	Unit of Measure					
		2012	2013	2014	2015	2016
Total Payroll of Workers employed within the Lottery Gaming Facility, including cost of paid benefits such as health insurance, unemployment insurance, worker's compensation, retirement.						
<b>General and Administrative</b>						
Professionals, Managers, Executives and Technicians	\$	1,101,666	1,134,716	1,168,757	1,203,820	1,239,934
Clerical Workers, Sales and Service Workers	\$	109,549	112,836	116,221	119,708	123,299
Production and Transport Operators, Laborers and Cleaners	\$					
<b>Casino</b>						
Professionals, Managers, Executives and Technicians	\$	5,035,966	5,534,760	5,700,803	6,364,541	6,555,477
Dealers and game supervisors	\$	5,020,846	5,843,138	6,018,432	6,796,025	6,999,906
Clerical Workers, Sales and Hosts	\$	1,903,844	1,924,320	1,982,050	2,146,284	2,210,673
Security and surveillance	\$	2,969,051	3,027,216	3,118,033	3,524,387	3,630,118
Cleaners	\$	695,335	716,195	737,681	759,811	782,605
Other	\$	2,216,717	2,404,661	2,476,801	2,766,779	2,849,783
<b>Hotel</b>						
Professionals, Managers, Executives and Technicians	\$					
Clerical Workers, Sales and Marketing Staff	\$					
Room cleaners, housekeeping supervisors	\$					
Other	\$					
<b>Food and Beverage</b>						
Professionals, Chefs, Managers, Executives and Technicians	\$	663,709	1,973,910	2,033,128	2,200,983	2,267,013
Clerical Workers, Sales and Service Workers	\$	73,602	76,370	78,661	85,155	87,710
Food preparers and servers, Hosting staff, and Cleaners	\$	1,248,792	3,474,406	3,578,638	3,874,092	3,990,314
Other	\$	148,718	655,823	675,497	731,266	753,204
<b>Other (including convention, entertainment, retail, etc.)</b>						
Professionals, Managers, Executives and Technicians	\$	220,780	227,403	234,226	241,252	248,490
Clerical Workers, Compliance, Accounting, and Sales	\$					
Human Resources	\$	124,355	128,086	131,928	135,886	139,963
Other	\$	-	1,712,375	1,763,746	2,543,322	2,619,622
<b>Others</b>						
Professionals, Managers, Executives and Technicians	\$	465,500	479,465	493,849	508,664	523,924
Clerical Workers, Sales and Service Workers	\$					
Production and Transport Operators, Laborers and Cleaners	\$					
<b>TOTAL PAYROLL (INCLUDING BENEFITS) FOR THE LGF</b>	\$	21,998,429	29,425,680	30,308,450	34,001,976	35,022,036

<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<b>Please submit 5-year projections, starting from the date of opening</b>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
<b>REVENUE (from below)</b>						
Casino		\$ 118,907,922	\$ 147,529,372	\$ 165,812,555	\$ 190,727,438	\$ 202,342,739
Hotel		-	-	-	-	-
Food		1,547,032	6,328,286	7,112,545	8,181,271	8,679,511
Beverage		2,320,549	4,218,858	4,741,697	5,454,181	5,786,341
Convention		-	-	-	-	-
Entertainment		-	3,074,016	3,508,046	6,179,648	6,951,919
Retail		-	1,072,500	1,104,675	1,137,815	1,171,950
Other		594,540	737,647	829,063	953,637	1,011,714
<b>Gross Revenues</b>		123,370,043	162,960,679	183,108,581	212,633,991	225,944,173
less: cost of sales		1,887,380	8,299,142	9,314,426	12,148,722	13,148,151
<b>Gross Margin</b>		121,482,663	154,661,537	173,794,155	200,485,269	212,796,022
<b>DEPARTMENTAL EXPENSES (from below)</b>		59,720,472	82,495,216	90,161,677	103,401,092	108,638,012
<b>DEPARTMENTAL INCOME</b>		\$ 61,762,192	\$ 72,166,321	\$ 83,632,478	\$ 97,084,177	\$ 104,158,010
<b>GENERAL AND ADMINISTRATIVE EXPENDITURE</b>						
Advertising and Promotion		14,518,823	19,292,479	22,431,776	23,460,558	25,182,019
Bad debt expense		-	-	-	-	-
Complementary expense (not reported in departments)		-	-	-	-	-
Depreciation - Buildings		1,480,897	2,738,757	2,744,011	3,424,817	3,428,727
Depreciation and Amortization		11,071,994	11,587,313	11,430,369	6,323,799	5,808,480
Energy Expense (electricity, gas, etc.)		1,554,463	2,053,305	2,113,531	2,358,643	2,434,271
Equipment rental or lease		-	-	-	-	-
Interest expense		9,276,782	9,740,617	8,239,711	7,690,793	6,119,571
Payroll taxes		319,826	329,421	339,303	349,482	359,967
Payroll - Employee benefits		735,599	757,667	780,397	803,809	827,924
Payroll - officers (THIS IS G&A PAYROLL)		3,198,258	3,294,206	3,393,032	3,494,823	3,599,668
Rent of Premises		-	-	-	-	-
Taxes - Real Estate		2,096,855	3,702,288	3,813,357	4,960,052	5,108,854
Taxes and Licenses - Other		-	-	-	-	-
Utilities (other than Energy Expenses)		172,718	228,145	234,837	262,071	270,475

<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<i>Please submit 5-year projections, starting from the date of opening</i>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
Other General and Administrative expenses		3,976,977	5,580,538	6,270,454	7,145,145	7,592,731
<b>TOTAL GENERAL AND ADM. EXPENDITURE</b>		48,403,192	59,304,735	61,790,777	60,273,993	60,732,686
<b>NET INCOME BEFORE FEDERAL INCOME TAX</b>		<b>\$ 13,359,000</b>	<b>\$ 12,861,586</b>	<b>\$ 21,841,701</b>	<b>\$ 36,810,184</b>	<b>\$ 43,425,324</b>
<b>DEPARTMENTAL INCOME STATEMENTS</b>						
<b>CASINO DEPARTMENT</b>						
<b>REVENUE</b>						
Pit Revenue (including keno, bingo)		18,104,000	24,550,963	25,287,492	29,200,000	30,076,000
Electronic gaming machines		100,803,922	120,503,709	137,976,123	158,902,029	169,562,567
Poker and other non-banked card games		-	2,474,700	2,548,941	2,625,409	2,704,172
<b>TOTAL REVENUE</b>		<b>118,907,922</b>	<b>147,529,372</b>	<b>165,812,555</b>	<b>190,727,438</b>	<b>202,342,739</b>

<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<b>Please submit 5-year projections, starting from the date of opening</b>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
<b>DEPARTMENTAL EXPENSES</b>						
Bad debt expenses		118,908	147,529	165,813	190,727	202,343
Commissions		-	-	-	-	-
Complementary expenses		1,082,923	6,025,185	6,898,806	7,945,101	8,478,128
Gaming taxes and licenses		35,672,377	44,258,812	49,743,767	57,218,231	60,702,822
Preferred guest expenses		-	-	-	-	-
Payroll taxes		1,173,679	1,276,717	1,315,018	1,484,019	1,528,539
Payroll - Employee Benefits		2,699,461	2,936,448	3,024,542	3,413,243	3,515,640
Payroll - Officers						
Payroll - Other Employees		11,736,786	12,767,167	13,150,182	14,840,186	15,285,392
Other Departmental Expenses		4,637,409	5,753,646	6,135,065	7,056,915	7,284,339
Preferred guest expenses		-	-	-	-	-
Payroll taxes		-	-	-	-	-
<b>TOTAL EXPENSES</b>		57,121,542	73,165,504	80,433,192	92,148,423	96,997,203
<b>TOTAL CASINO INCOME</b>		\$ 61,786,380	\$ 74,363,868	\$ 85,379,364	\$ 98,579,015	\$ 105,345,536

<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<i>Please submit 5-year projections, starting from the date of opening</i>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
<b>FOOD DEPARTMENT</b>						
<b>REVENUE</b>						
Food Sales		464,110	2,847,729	3,200,645	3,681,572	3,905,780
Complementary Food Sales		1,082,923	3,480,557	3,911,900	4,499,699	4,773,731
<b>TOTAL REVENUE</b>		1,547,032	6,328,286	7,112,545	8,181,271	8,679,511
Cost of sales		959,160	3,923,538	4,409,778	5,072,388	5,381,297
<b>GROSS MARGIN</b>		587,872	2,404,749	2,702,767	3,108,883	3,298,214
<b>DEPARTMENTAL EXPENSES</b>						
Bad debt expenses		-	-	-	-	-
Complimentary expenses		-	-	-	-	-
Payroll taxes		64,205	344,315	354,645	381,762	393,215
Payroll - Employee Benefits		147,672	791,925	815,683	878,052	904,394
Payroll - Officers		-	-	-	-	-
Payroll - Other Employees		642,051	3,443,153	3,546,448	3,817,619	3,932,148
Other Departmental Expenses		185,644	759,394	853,505	981,753	1,041,541
Payroll taxes		-	-	-	-	-
<b>TOTAL EXPENSES</b>		1,039,572	5,338,788	5,570,281	6,059,186	6,271,298
<b>TOTAL FOOD INCOME</b>		<b>\$ (451,700)</b>	<b>\$ (2,934,039)</b>	<b>\$ (2,867,514)</b>	<b>\$ (2,950,303)</b>	<b>\$ (2,973,084)</b>

<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<i>Please submit 5-year projections, starting from the date of opening</i>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
<b>BEVERAGE DEPARTMENT</b>						
<b>REVENUE</b>						
Beverage Sales		2,320,549	4,218,858	4,741,697	5,454,181	5,786,341
Complementary Beverage Sales		-	-	-	-	-
<b>TOTAL REVENUE</b>		2,320,549	4,218,858	4,741,697	5,454,181	5,786,341
Cost of sales		928,219	1,687,543	1,896,679	2,181,672	2,314,536
<b>GROSS MARGIN</b>		1,392,329	2,531,315	2,845,018	3,272,509	3,471,804
<b>DEPARTMENTAL EXPENSES</b>						
Bad debt expenses		-	-	-	-	-
Complimentary expenses		-	-	-	-	-
Payroll taxes		96,308	120,385	123,996	136,396	140,488
Payroll - Employee Benefits		221,508	276,885	285,191	313,710	323,121
Payroll - Officers		-	-	-	-	-
Payroll - Other Employees		963,077	1,203,846	1,239,961	1,363,957	1,404,876
Other Departmental Expenses		278,466	506,263	569,004	654,502	694,361
Payroll taxes		-	-	-	-	-
<b>TOTAL EXPENSES</b>		1,559,358	2,107,378	2,218,152	2,468,565	2,562,846
<b>TOTAL BEVERAGE INCOME</b>		<b>\$ (167,029)</b>	<b>\$ 423,937</b>	<b>\$ 626,866</b>	<b>\$ 803,944</b>	<b>\$ 908,958</b>

<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<i>Please submit 5-year projections, starting from the date of opening</i>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
<b>ENTERTAINMENT DEPARTMENT</b>						
<b>REVENUE</b>						
Total Sales		-	1,441,013	1,460,114	3,701,389	4,243,679
Complementary Sales		-	1,633,003	2,047,933	2,478,259	2,708,240
<b>TOTAL REVENUE</b>		-	3,074,016	3,508,046	6,179,648	6,951,919
Cost of sales		-	2,151,811	2,455,632	4,325,754	4,866,343
<b>GROSS MARGIN</b>		-	922,205	1,052,414	1,853,894	2,085,576
<b>DEPARTMENTAL EXPENSES</b>						
Bad debt expenses		-	-	-	-	-
Complimentary expenses		-	-	-	-	-
Payroll taxes		-	128,750	132,613	191,227	196,964
Payroll - Employee Benefits		-	296,125	305,009	439,823	453,017
Payroll - Officers		-	-	-	-	-
Payroll - Other Employees		-	1,287,500	1,326,125	1,912,272	1,969,640
Other Departmental Expenses		-	-	-	-	-
Payroll taxes		-	-	-	-	-
<b>TOTAL EXPENSES</b>		-	1,712,375	1,763,746	2,543,322	2,619,622
<b>TOTAL ENTERTAINMENT INCOME</b>		\$ -	\$ (790,170)	\$ (711,332)	\$ (689,428)	\$ (534,046)



<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<i>Please submit 5-year projections, starting from the date of opening</i>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
<b>RETAIL</b>						
<b>REVENUE</b>						
Total Sales		-	160,875	165,701	170,672	175,792
Complementary Sales		-	911,625	938,974	967,143	996,157
<b>TOTAL REVENUE</b>		-	1,072,500	1,104,675	1,137,815	1,171,950
Cost of sales		-	536,250	552,338	568,908	585,975
<b>GROSS MARGIN</b>		-	536,250	552,338	568,908	585,975
<b>DEPARTMENTAL EXPENSES</b>						
Bad debt expenses		-	-	-	-	-
Complimentary expenses		-	-	-	-	-
Payroll taxes		-	12,870	13,256	13,654	14,063
Payroll - Employee Benefits		-	29,601	30,489	31,404	32,346
Payroll - Officers		-	-	-	-	-
Payroll - Other Employees		-	128,700	132,561	136,538	140,634
Other Departmental Expenses		-	-	-	-	-
Payroll taxes		-	-	-	-	-
<b>TOTAL EXPENSES</b>		-	171,171	176,306	181,595	187,043
<b>TOTAL RETAIL INCOME</b>		\$ -	\$ 365,079	\$ 376,031	\$ 387,312	\$ 398,932

<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>						
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>						
<b>Please submit 5-year projections, starting from the date of opening</b>						
<b>PROJECTED DATE OF OPENING:</b>	<b>12/1/2011</b>					
		2012	2013	2014	2015	2016
<b>OTHER DEPARTMENTAL INCOME (please specify) - CHECK</b>						
<b>CASHING,ATM FEES &amp; LEASED OUTLETS</b>						
<b>REVENUE</b>						
Total Sales		594,540	737,647	829,063	953,637	1,011,714
Complementary Sales		-	-	-	-	-
<b>TOTAL REVENUE</b>		594,540	737,647	829,063	953,637	1,011,714
Cost of sales		-	-	-	-	-
<b>GROSS MARGIN</b>		594,540	737,647	829,063	953,637	1,011,714
<b>DEPARTMENTAL EXPENSES</b>						
Bad debt expenses		-	-	-	-	-
Complimentary expenses		-	-	-	-	-
Payroll taxes		-	-	-	-	-
Payroll - Employee Benefits		-	-	-	-	-
Payroll - Officers		-	-	-	-	-
Payroll - Other Employees		-	-	-	-	-
Other Departmental Expenses		-	-	-	-	-
Payroll taxes		-	-	-	-	-
<b>TOTAL EXPENSES</b>		-	-	-	-	-
<b>TOTAL OTHER DEPARTMENTAL INCOME</b>		\$ 594,540	\$ 737,647	\$ 829,063	\$ 953,637	\$ 1,011,714

CONSTRUCTION PHASE INFORMATION DURING OPERATIONS PHASE OF LOTTERY GAMING FACILITY													
Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center													
Please submit 5-year projections, starting from the date of opening													
PROJECTED DATE OF OPENING: 12/1/2011													
	2010	2011	2012	2013	2014	TOTAL							
<b>Development Investment</b>													
<b>Fixed asset investment</b>													
Buildings	-	37,204,662	36,304,138	-	37,025,526	110,534,326							
Land and land improvements	2,750,000	22,508,000	8,465,686	-	719,502	34,443,188							
Public sector infrastructure	-	12,938,400	-	-	-	12,938,400							
Furniture, fixtures and equipment	-	12,871,317	5,124,585	-	6,311,883	24,307,785							
Floor and wall treatments	-	1,633,915	5,402,638	-	2,051,423	9,087,976							
Gaming equipment	-	30,944,958	1,196,000	-	10,030,000	42,170,958							
Private utilities infrastructure	-	7,014,000	629,000	-	16,900	7,659,900							
Architectural / engineering	-	2,642,000	2,835,000	-	1,680,000	7,157,000							
Casino bankroll	-	4,000,000	-	-	1,000,000	5,000,000							
Pre-opening expenses	-	2,203,420	-	-	-	2,203,420							
Financing costs	-	4,000,000	-	-	-	4,000,000							
License fee	25,000,000	-	-	-	-	25,000,000							
<b>TOTAL INVESTMENT</b>	<b>27,750,000</b>	<b>137,960,672</b>	<b>59,957,047</b>	<b>-</b>	<b>58,835,234</b>	<b>284,502,953</b>							
<b>Source of Funds for Investment</b>													
<b>Percent each year from:</b>													
Debt (1)		30%				15%							
Working Capital from Parent Company (2)	100%	70%	67%		68%	72%							
Other (please explain)													
3rd party hotel construction			33%		32%	13%							
(1) Includes FF&E and slot vendor financing incurred directly by Kansas Star.													
(2) Includes cash flows from operations and financing sourced at the parent company level.													
The following figures on a Quarterly basis	2010-III	2011-I	2011-II	2011-III	2011-IV	2012-I	2012-II	2012-III	2012-IV	2014-I	2014-II	2014-III	2014-IV
<b>Development Employment Data</b>													
<b>Construction Employment</b>													
Average hourly Wage per employee, excluding benefits	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00	\$ 25.00
Total construction payroll	- 3,008,348	3,610,017	5,986,471	4,656,753	3,564,682	5,465,845	5,941,136	3,564,682	3,473,506	5,210,260	5,210,260	3,473,506	
Average Hourly Benefits per employee	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00	\$ 4.00
Other expenses per employee	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50	\$ 5.50
Cost of materials from region	- 2,068,239	2,481,887	4,115,699	3,201,519	2,450,719	3,757,769	4,084,531	2,450,719	2,388,036	3,582,054	3,582,054	2,388,037	
Cost of materials from outside of region	- 1,692,196	2,030,634	3,367,390	2,619,424	2,005,133	3,074,538	3,341,889	2,005,133	1,953,847	2,930,771	2,930,771	1,953,846	
<b>Other Development Expenses:</b>													
Land & land improvements	2,750,000	15,950,000	1,852,667	1,852,667	2,852,666	1,728,922	1,728,922	1,728,922	3,278,920	179,875	179,875	179,875	179,877
Public sector infrastructure	- 2,646,132	2,646,134	2,646,134	5,000,000	-	-	-	-	-	-	-	-	-
Private utilities infrastructure	- 1,504,667	1,504,667	2,500,000	1,504,666	157,250	157,250	157,250	157,250	-	16,900	-	-	-
Architectural / Engineering	- 2,113,600	300,000	150,000	78,400	2,268,000	300,000	200,000	67,000	454,000	470,000	456,000	300,000	
FF&E	- 752,087	1,758,096	4,063,394	6,297,740	891,170	1,366,461	1,632,434	1,234,520	868,377	1,302,565	1,893,565	2,247,376	
Gaming equipment	- -	-	1,547,248	29,397,710	-	-	-	1,196,000	-	-	501,500	9,528,500	
Casino bankroll	- -	-	-	4,000,000	-	-	-	-	-	-	-	1,000,000	
Pre-opening expenses	- -	-	220,342	1,983,078	-	-	-	-	-	-	-	-	
Financing costs	- 4,000,000	-	-	-	-	-	-	-	-	-	-	-	
License fee	25,000,000	-	-	-	-	-	-	-	-	-	-	-	
<b>TOTAL COSTS</b>	<b>27,750,000</b>	<b>33,735,269</b>	<b>16,184,102</b>	<b>26,449,345</b>	<b>61,591,956</b>	<b>13,065,876</b>	<b>15,850,785</b>	<b>17,086,162</b>	<b>13,954,224</b>	<b>9,317,641</b>	<b>13,692,425</b>	<b>14,754,025</b>	<b>21,071,143</b>

## **ADDITIONAL INFORMATION**

### **Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center**

#### **#1 What is the Goal Set you have established for your project? The Goal Set should include both financial and non-financial goals.**

##### Financial goals

- To create a first class regional destination resort in south central Kansas that will generate maximum revenues for the state of Kansas from a mix of residents and tourists.
- As part of the Kansas Star project we will develop specific amenities that appeal to carefully defined target audiences so as to capture out of state visitation and promote tourism for the state of Kansas. The Kansas star will function as an important “export” engine for Sumner County and Kansas.
- As a result of our project, stimulate positive economic impact for Sumner County and the state of Kansas.
- Provide much needed employment and related benefits to hundreds of families that currently are struggling with a challenging economy.
- To capitalize this project appropriately. To have responsible levels of indebtedness to balance the needs of shareholder returns while allowing continued reinvestment in the project and healthy levels of free cash flow.

#### Non-financial goals

- Bring our strong community-minded corporate culture to Sumner County so that we become true partners. The Kansas Star will have a major impact on the surrounding community. Keeping that impact positive will be critical for the long-term success of the property and the community.
- Create an educational scholarship fund that provides all students in Sumner County with assistance towards educational expenses.
- Build and develop a project featuring high-quality products and amenities that appeal to our target audience. The product and amenities will be routinely refreshed based upon guest feedback and to ensure that the Kansas Star maintains high repeat visitations and continually appeals to new visitors.
- Ensure a memorable and superior guest service experience, as any guest would in any of the Peninsula properites, to promote repeat visitation and to maximize a guest's length of stay during each visit.
- Build a world class equestrian venue and entertainment center so that the Kansas Star will become a significant and unique regional destination.
- To bring our significant experience and established track record of operating in highly regulated gaming markets to Kansas, a newly established regulatory environment

## **#2 Describe the overall concept of your project.**

The Kansas Star Casino, Hotel and Event Center will be designed and built with exciting gaming and non-gaming elements to position the property as a significant regional destination. These elements will work synergistically to create a destination that will attract and delight a high volume of guests

from Kansas and other states throughout the Midwest. The Kansas Star will provide superior guest service from highly-trained and motivated team members.

## **#3 Please provide a list description, and benefits of market segments you propose to target. If you also expect to achieve any synergies from collectivizing Target Market Segments please identify and explain.**

When creating market segments we first divide our target audience into gaming and non-gaming markets.

Utilizing our database the gaming market will be broken into three distinct areas:

Level of Play – This segment will be broken into nine levels of play based on historical daily profitability.

- Distance that the customer lives from the property –

- Inner market players – These players live within 50 miles of the property. They will provide us with the most frequent visitation, and therefore generate the most gaming revenue for our facility.

- Outer market players – These players live a distance greater than 50 miles from the property. While these customers visit less frequently than inner market players, they often visit from other states and their stay is usually longer. This category of player typically will use the

hotel and a wider variety of food and beverage outlets more often than inner market players. Some outer market segments will be serviced by motorcoach operators. These segments consist primarily of active seniors and social groups. They typically fill a property's off peak

mid-week period and generate revenue in both the hotel and food outlets.

- Trip frequency patterns of the rated player - This segment will be broken into three ranges.

- Low - <4 trips per month

- Medium – >4 and <12 trips per month

- High - >12 trips per month

Offers to our database customer are delivered via direct mail and electronic media. The value of these offers is determined by a combination of all the factors listed above.

The final segment of the gaming market is the unrated player. Our goal with these players is to convert them to members of the database where they will receive incentives based on the distinct gaming areas listed above.

In addition, we will target the following non-gaming areas:

- 1) Food and Wine
- 2) Equestrian Enthusiasts
- 3) Hotel / Business Travelers
- 4) Hotel / Leisure Travelers
- 5) Concert / Live Entertainment Attendees

We will target these markets through direct sales techniques and advertising in print, radio, TV, internet and outdoor.

All of the above market segments will interact with each other at various times to create synergy between gaming and non-gaming amenities to enhance the customer's overall experience and to assist in the maximization of revenues for the state of Kansas. Non-gaming amenities will be used to drive visitation. For example, the 300 room hotel has enough capacity so as to target different markets at peak and off peak times to achieve optimal gaming revenue. The food and beverage product will also be used to drive visitation and incent gaming play. We will use our database to target specific levels of players with varied promotional and direct mail offers so that we will market to the applicable segment and essentially create demand to who we want, when we want.

#### **#4 Please describe your Product Marketing Plan, i.e. what is your overall project concept, programming, design objectives and delivery execution plan.**

Located strategically adjacent to I-35 with our own dedicated ingress/egress ramp, the Kansas Star Casino, Hotel and Event Center will be the premier entertainment complex in the state of Kansas. The proposed \$284 million dollar project will contain over 60,000 square feet of gaming space and include 2,000 slot machines, 50 table games, and a dedicated poker room with 10 tables. The property will have a 300 room hotel, indoor event center, world class indoor/outdoor equine arena, 100 space RV park and convenient parking for 3,800. The facility will house multiple food venues including a buffet, high-end steak house, and two food court outlets. In addition, the complex will have a sports bar, casino bar, and gift shop.

The Kansas Star will provide a superior lodging facility with 300 rooms. The 188,000 square foot hotel will have 260 oversized standard rooms measuring approximately 450 square feet and 40 premium rooms encompassing 900 square feet. Upon project completion, the hotel will create substantial destination visitation and be instrumental in increasing tourism into the marketplace.

The indoor event center will seat 3,000 individuals for events and 4,200 guests for concerts. The center will be an important amenity to increase tourism into the market through conferences, trade shows, special events and named entertainers. The nearly 250,000 square foot equine center and 100 space RV park will be paramount in increasing the property's outer market reach.

Multiple food and beverage outlets will be housed on property. The 12,500 square foot buffet will seat 250 guests and contain a variety of freshly prepared food options. The 140 seat high-end steakhouse will create the perfect atmosphere to enjoy an evening with friends or an intimate dinner for two. Two additional national food outlets will be available for guests to dine at the resort. A 150 seat sports bar and 35 seat casino bar complete the list of dining and beverage amenities located at the property.

Working in tandem, the casino, hotel, event and equine center, RV park, and food and beverage facilities will make the Kansas Star the premier local and destination entertainment complex in the state.



## **#5 Please provide a description of your pre-opening Demand Stimulation Marketing Plan.**

We know that it is essential to garner a substantial database before we open our doors. Historically we have been able to obtain over 9,000 database accounts prior to a project opening and we expect that to increase in the South Central market. Our target is 7,500 customers prior to opening. To that end, our initial mass media campaign will focus on brand introduction and obtaining an initial database of customers.

We will use regional print and broadcast media outlets to create awareness of our project. The message – “Get Carded” will dominate the market with our teaser campaign making people want to visit our website [www.kansasstarcasino.com](http://www.kansasstarcasino.com)

Once at our website, potential club members will learn about the project, sign up to receive updates, and have the opportunity to be one of the first to sign up for a free club membership. Visitors to our website are going to want to sign up for a card because not only will they receive \$10 in free play on their first visit, they will also receive extra entries into the “Members Only Drawing” where twenty winners will be drawn who will each win \$1,000 in free play plus a chance to win a “Golden Ticket” – an exclusive invitation to a private Grand Opening party. This effort will invite initial trial of our property and will become a standard element that the customers will experience as part of our post opening marketing initiatives.

Also, a strong relationship marketing team will be assembled. We will speak at local service organization meetings and chamber events. These gatherings will allow us to inform/update people on our project in a more personal way. Plus, we would take this opportunity to sell our players’ club and encourage the audience to “Get Carded!”

In addition, we will conduct focus groups with known local gamers, tour bus operators, and key community leaders to receive input on their specific area of interest regarding the facility.

## #6 Please provide a description of your post-opening Demand Stimulation Marketing Plan.

The primary component of our Demand Stimulation Marketing Plan will be to utilize our database to identify segments that can best be reached through our direct mail efforts. We will analyze the database to help us determine how to incent additional trips by providing rewards with a high perceived value. Offers will include, hotel stays, food, gifts, free play, entertainment and more. Our guests will want to become members of our player's club because of the benefits. The preceding will influence players' decisions on future visitation and help to drive long term spend patterns and loyalty. We will constantly update our promotions to make sure the customer is motivated to continue or increase their level of trip frequency.

Players that live farther than 50 miles away would receive offers that would take into account the distance they would have to travel. In addition to receiving the appropriate free play offer they may receive an additional buffet comp, a discounted hotel offer during off peak times or, if play dictates, a comp room to be used at the player's discretion.

Interspersed with these targeted offers to our database, we will work with tour operators to bring in motorcoach groups to fill off peak periods using amenities like our 300 room hotel and The Kitchen Buffet.

We will continue to create awareness to influence decisions of the non-rated customer. Our advertising strategy for this market will be to utilize TV, print, radio and outdoor. Our ads will also focus on upcoming entertainment, our exceptional food product, casino promotions, all to deliver the overall message that the Kansas Star is the premier destination attraction in the region.

In an effort to continue to grow revenue in our target market segments, we will constantly analyze our database to ensure that we are increasing revenue in all aspects of our database. In addition we will focus on converting the unrated player to our database by continuing to create new promotions and to constantly search for new ways to engender their loyalty.

Approximate Cost breakdown as a percent of Gross Gaming Revenue:

• Promotional expense	4.5%
• Comp expense	3.0%
• Advertising	1.5%
• Production expense	1.0%

Approximate Cost breakdown of advertising as a percent of advertising expense:

• Radio	30%
• Outdoor	25%
• Print	20%
• TV	15%
• In-house	5%
• Internet	5%

**7. Notwithstanding the individual answers above, how does the Sum of the Parts combine to meet or exceed the needs of the marketplace, allow the property to niche/beat the competition, and accomplish the owner's and KLFGRB respective Goal Set?**

When we first began designing our Project we spent a great deal of time studying South Central, Kansas and the Midwest to ensure that our Project reflects the culture, values and history of the region. Instead of offering a pre-packaged, commodity product that treats the market as though it is interchangeable with every other gaming market, we have spent a great deal of time and resources developing our amenities, including our Equestrian Event Center, which are uniquely suited to the interest of the residents of Kansas and the Midwest. Further, as we have demonstrated with each of our existing properties, Peninsula Gaming is uniquely committed to partnering with the local community to ensure that each of our properties becomes a centerpiece of the community in which it operates.

We believe that the design of our Project, including our Equestrian Event Center, when coupled with our community-focused operating philosophy will create a unique destination casino that is much more than just the sum of its parts. Our significant research shows that our proposed Project is

unmatched in the local and extended gaming market, and that it will not only keep gaming dollars in Kansas that are currently being lost to Oklahoma, but will draw significant new customers from across Kansas and the Midwest.

Our understanding of the goals of the KLFGRB are:

1. Maximize gaming revenue, which will maximize tax revenue to the State.
2. Maximize tourist visits to South Central Kansas from across the region and the country.
3. To build a Lottery Gaming Enterprise that is in the best interest of the Citizens of the State of Kansas.

Kansas Star directly and completely meets these objectives. Of the 3 million visitors per year to our facility approximately 300,000 will be from outside the local region, primarily driven by our Equestrian Event Center. Our facility will generate approximately 200 million dollars of total revenue, significantly more than the other applicant. In addition our facility uniquely starts to generate revenue to the State during the 2011 fiscal year.

Further, our Project not only is in the best interest of the Citizens of Kansas because it maximizes gaming revenue, but also because it provides significant added benefits. Those benefits come through our Ad Astra Scholarship fund, the significant jobs from our Equestrian facility, and the direct economic impact on Sumner County resulting from our project.

## **MOST IMPORTANT FEATURES**

### **Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel & Event Center**

#### **PLEASE NOTE WHAT YOU CONSIDER TO BE THE TEN MOST IMPORTANT FEATURES OF YOUR PROPOSAL.**

**What factors of your proposal are most distinctive in making it more attractive to Kansas and its residents than a "generic" gaming facility that could be developed within this zone?**

**Please provide descriptions of ten (or fewer) features in 250 words or less for each.**

**1.**

#### **Financial resources**

Peninsula Gaming has a very strong reputation within the investment community and has enjoyed that reputation for over a decade. In August 2009, the company recapitalized its balance sheet as a reflection of our performance as a company and the support we enjoy from the investment community. Our securities trade in the market well above issue price (Peninsula Gaming, LLC 8 3/8% Senior Secured Notes and 10 3/4% Senior Unsecured Notes most recent trades at 105.5 and 107, respectively). We also enjoy a great relationship with our lenders led by Wells Fargo. We also have among the strongest ratings from Standard & Poor's and Moody's in the industry. We are very confident in our ability to finance this project and ensure its completion in a timely manner.

**2. Maximize revenues for the state of Kansas**

In addition to developing what will be a first class casino experience, the Kansas Star project meets the goal of maximizing revenues for Kansas as outlined in SB 66 in the following ways:

- Superior location
- World class equestrian venue
- 300 room hotel
- Concert venue with a capacity of approx. 4,200 seats
- Over 3,200 customer parking spaces
- 100 space RV park
- Full range of quality dining options
- The combination of a world class equestrian venue and casino resort offers customers the opportunity to participate in varied activities during their stay, thereby increasing the attractiveness of the destination and the resultant maximization of revenues for Kansas.

**3. Great location**

The proposed facility is located adjacent to I-35, a major N-S freeway through the state of Kansas and Oklahoma. To provide minimal impact to nearby local roads, a dedicated on-off access directly from the interstate will allow locals and tourists to easily enter/exit the facility. The Kansas Star project, at exit 33 near Mulvane, has a superior location to Wichita, and is more convenient for tourists visiting Wichita.

**4. World class equestrian venue**

The equestrian venue will be capable of hosting virtually any type of equestrian discipline that can serve a local, regional, or national audience. Kansas does not currently offer a comparable facility that can host this magnitude of event activity. It is estimated that this agritourism venue will draw over 255,000 visitors per year and will yield a total economic impact of \$34 million to the economy.

**5. The proposed amenities will promote tourism**

When fully developed, the facility will have unique amenities in addition to the casino that will create a true destination that will promote tourism – 300 hotel rooms, convenient freeway ingress/egress, an equestrian venue that by itself would be a destination, convenient parking, a full range of quality dining choices, RV park, and an event center capable of hosting concerts of up to 4,200 customers.

**6. Management experience**

The company's senior executives have spent virtually all of their careers building, opening, managing, and growing revenues in local / regional type facilities. The proposed Kansas Star's management team has personally developed, opened, and managed larger sized local's casino facilities than any other team in the industry.

At our existing properties we adhere to strict compliance of regulators. There are competitive advantages that we enjoy over our Native American competitor due to our experience and expertise.

- Prevention of money laundering
- Prevention of underage gaming
- Strict adherence to gaming regulations
- Monitoring problem gambling by patrons
- High standards of financial reporting, outside auditing and control systems
- Superior surveillance and lost-prevention systems
- Risk management
- Higher standards of labor relations

**7. A management culture that yields a superior customer service experience**

The company is very focused and committed on providing excellent customer service. As an example of the success of this commitment, the company's Dubuque, IA property has received best casino in Iowa customer service awards for most friendly employees 9 years in a row, best dealers 5 years in a row, and in 2010 placed in the best categories of favorite casino, best live entertainment, and best sports bar.

**8. The company understands how to operate in a highly regulated local's environment**

The company is based in the Midwest. All of the company's 4 properties operate in the same local's type environment as the proposed Kansas Star project. In addition, each of the company's properties operate in a highly regulated environment overseen by state agencies, the same as in Kansas.

**9. Dining**

The company has a well know tradition of offering its customers a superior food product served with excellent customer service. For example, the signature Woodfire Grill Steakhouse located at both of the Iowa properties are regarded as the finest restaurants in their respective regions.

**10. The company practices a unique commitment of ownership to partner with the local community**

The company understands the importance of becoming involved with the community in which it operates. Two examples: (1) The company will create a partnership with local retailers similar to the program in its Dubuque, IA property that allows our customers to redeem their earned players club points for goods and services at area retail stores. (2) The company's educational scholarship fund provides educational assistance for all students and teachers in the county. Both of these unique partnership programs will be a part of the Kansas Star's local community commitment.

<b>SUMMARY OF PROPOSAL DATA</b>					
<b>Peninsula Gaming Partners, LLC - Kansas Star Casino, Hotel &amp; Event Center</b>					
<b><u>Project Description</u></b>		<b><u>Unit of Measure</u></b>			
From award of license to opening (in months)					
Temporary facility if applicable		#	11		
Permanent facility		#	23		
Total investment in project		\$	\$284,502,953		
Casino square footage		#	63,700		
No. of hotel rooms		#	300		
# food and beverage outlets		#	7		
Convention center square footage		#	(2) Meeting rooms in the hotel plus	100,000 square foot event center	
Retail square footage		#	650		
Event/entertainment facility square footage		#	351,198		
No. of covered parking spaces		#	0		
No. of surface parking spaces		#	3,965		
				<b>1st Full Year of Operation Phase 1b</b>	
No. of annual visitors		#	2,232,389		
% within 100 miles		%	92%		
% of overnight visitors		%	4%		
Annual gross gaming revenue		\$	\$ 147,529,372		
Annual hotel occupancy		%	85%		
Annual hotel revenue		\$	3rd Party		
Annual food and beverage revenue		\$	10,547,144		
Net income before federal income taxes		\$	P	\$ 12,441,586	
<b><u>Employment and Payroll</u></b>					
No. of FTE operating employees-total project		#	870		
Annual operating payroll-total project		\$	\$ 35,022,036		
<b><u>Economic and Fiscal Impacts</u></b>					
Total economic impact-construction		\$	\$229,971,000	Sourced from the Economic & Fiscal Impact report by Econosult	
Total economic impact-operating		\$	\$166,058,000	Sourced from the Economic & Fiscal Impact report by Econosult	
Total incremental public sector revenue-construction		\$	\$ 9,704,297		
Total incremental public sector costs-construction		\$	Unknown	All public infrastructure cost are paid by developer	
Total incremental public sector revenue-operating		\$	\$ 45,920,704		
Total incremental public sector costs-operating		\$	377,951		
<b>Three Most Important Features</b>					
1	\$260 million spent in four years with no conditions				
2	Highest revenue generation by true destination casino and event center				
3	Proven financial capability driven by impeccable record with investment community				

**LOTTERY GAMING FACILITY MANAGEMENT CONTRACT**  
(Pursuant to the Kansas Expanded Lottery Act)

This LOTTERY GAMING FACILITY MANAGEMENT CONTRACT ("Agreement") is for the development, construction, and management of a Lottery Gaming Facility, the business of which will be owned and operated by the Kansas Lottery, to be located in the South Central Gaming Zone.

This Agreement is between the Kansas Lottery, which is acting on behalf of the State of Kansas in accordance with the Kansas Expanded Lottery Act, K.S.A. 2008 Supp. 74-8733 through 74-8773, and Global Gaming KS, LLC, a Kansas limited liability company ("Manager").

NOW THEREFORE, in consideration for the mutual promises and covenants between the parties, it is agreed that:

1. **Certain Defined Terms.** The capitalized terms listed below will have the following meanings. Any other capitalized terms not specifically defined in this Agreement will have the meanings attributed to them in the Kansas Lottery Act, the Kansas Expanded Lottery Act, or the rules and regulations implementing those Acts, as the case may be, and as amended from time to time.
  - a) "Ancillary Lottery Gaming Facility Operations" means additional non-lottery facility game products and services not owned and operated by the state which may be included in the overall development associated with the Lottery Gaming Facility. Such operations may include, but are not limited to, restaurants, hotels, motels, museums or entertainment facilities.
  - b) "Application for Lottery Gaming Facility Manager" means the competitive proposal and all attachments submitted to the Kansas Lottery by Manager under the Kansas Expanded Lottery Act for the privilege of being designated the Lottery Gaming Facility Manager in the South Central Gaming Zone.
  - c) "Business Plan" means the document prepared by Manager and approved by the Executive Director, at least annually, setting out the management activities anticipated for the Lottery Gaming Facility as provided below in Paragraph 11 for an upcoming Fiscal Year or portion of Fiscal Year as the case may be.
  - d) "Commencement Date" means the date specified in writing when the Executive Director first determines Manager has satisfied all conditions required by this Agreement so that Lottery Facility Games may be offered for play at the Lottery Gaming Facility.
  - e) "Commission" means the Kansas Lottery Commission.
  - f) "Effective Date" means the date this Agreement is signed by all the parties and all required approvals for the Agreement are obtained in accordance with the Kansas Expanded Lottery Act and rules and regulations promulgated pursuant thereto.

- g) “Electronic Gaming Machine” means any electronic, electromechanical, video or computerized device, contrivance or machine authorized by the Kansas Lottery which, upon insertion of cash, tokens, electronic cards or any consideration, is available to play, operate or simulate the play of a game authorized by the Kansas Lottery pursuant to the Kansas Expanded Lottery Act, including, but not limited to, bingo, poker, roulette, blackjack, keno and slot machines, and which may deliver or entitle the Player operating the machine to receive cash, tokens, merchandise or credits that may be redeemed for cash, tokens, service or merchandise. Electronic Gaming Machines may use bill validators and may be single-position reel-type, single or multi-game video and single-position multi-game video electronic game, including, but not limited to, poker, blackjack and slot machines. Electronic Gaming Machines are one type of Lottery Facility Games.
- h) “Executive Director” means the executive director of the Kansas Lottery.
- i) “Fiscal Year” means the accounting year established for the Lottery Gaming Facility, which is specified here to be the twelve month period commencing January 1 and ending on December 31, and includes any partial (short) year.
- j) “Gray Machine” means any mechanical, electro-mechanical or electronic device, available to the public for play that is capable of being used for gambling, that is: (1) not authorized by the Kansas Lottery; (2) not linked to the lottery central computer system as required by the Kansas Expanded Lottery Act; or (3) capable of simulating a game played on an Electronic Gaming Machine or any similar gambling game authorized pursuant to the Kansas Expanded Lottery Act.
- k) “Immediately” means as soon as practicable given the circumstances of the incident but in no case more than 24 hours.
- l) “Kansas Expanded Lottery Act” means the provisions contained in K.S.A. 2008 Supp. 74-8733 *et seq.*, and amendments thereto which may become effective during this Agreement’s term.
- m) “Kansas Lottery” means the state agency created by the Kansas Lottery Act, K.S.A. 74-8701, *et seq.*, as amended, to operate a lottery or lotteries pursuant to the Kansas Lottery Act or the Kansas Expanded Lottery Act.
- n) “Lottery Facility Games” means any Electronic Gaming Machines and any other games authorized, as of January 1, 2007, to be conducted or operated at a tribal gaming facility, as defined in K.S.A. 74-9802, and amendments thereto, located within the State of Kansas’ boundaries and are owned and operated by the Kansas Lottery.
- o) “Lottery Gaming Enterprise” means the entertainment enterprise and all facilities and operations associated therewith, including a Lottery Gaming Facility and Ancillary Lottery Gaming Facility Operations, as more fully set forth in the Manager’s Application for Lottery Gaming Facility Manager.



- p) “Lottery Gaming Facility” means (i) that portion of the Lottery Gaming Enterprise used for the purposes of operating, managing and maintaining Lottery Facility Games, as more fully described in the Application for Lottery Gaming Facility Manager filed by Manager with the Kansas Lottery or (ii) a temporary facility for the purposes of operating, managing and maintaining Lottery Facility Games as approved by the Executive Director.
- q) “Lottery Gaming Facility Revenues” means the total revenues from the play of Lottery Facility Games operated at the Lottery Gaming Facility after all related Prizes are paid. This term does not include (i) money generated from Ancillary Lottery Gaming Facility Operations (to which the Kansas Lottery has no financial interest) even if the revenue is generated within the Lottery Gaming Facility or (ii) Promotional Credit(s).
- r) “Player” means a person who: (1) takes part in a Lottery Facility Game by paying consideration or using Promotional Credit for the chance of winning a Prize; and (2) is lawfully eligible to play a Lottery Facility Game under the Kansas Expanded Lottery Act or applicable rules and regulations.
- s) “Progressive Electronic Game” means a game played on one or more Electronic Gaming Machines for which at least one payoff increases uniformly as the game is played and the Prize is determined by application of a formula to the income of independent, local, or interlinked Electronic Gaming Machines.
- t) “Promotional Credit” means any non-cashable credit, coupon or voucher redeemable by a Player at a Lottery Gaming Facility for use in playing Lottery Facility Games that is provided to a Player by Manager on a discretionary basis for purposes of promoting the Lottery Gaming Facility in accordance with a promotional program approved by the Executive Director.
- u) “Promotional Item” means any non-cash, complimentary service or discount provided to a Player by Manager on a discretionary basis for purposes of promoting the Lottery Gaming Facility in accordance with a promotional program approved by the Executive Director.
- v) “Prize” means any money, cash, tokens, merchandise, or credits redeemable for cash or play in a Lottery Facility Game that a Player may be entitled to as an award for playing a Lottery Facility Game under the rules of that game. For any Electronic Gaming Machines offering progressive winnings to a Player based on the use of Electronic Gaming Machines in a Progressive Electronic Game, “Prize” also includes a percentage of every wager played on a Progressive Electronic Game that is contributed to a growing jackpot amount to a successful Player as an award for playing an Electronic Gaming Machine under the rules of that Progressive Electronic Game, but does not include the reset amount. “Prize” does not include any administrative fees or other expenses associated with an Electronic Gaming Machine’s acquisition, operation, maintenance or replacement that are not payable to a winning Player.

- (w) "Tribal Gaming Facility" means, for the purpose of this Contract, a gaming facility which meets all of the following: (i) is located on the approximate 10.5 acres of land in Park City, Kansas in the South Central Gaming Zone, and owned by the Wyandotte Tribe of Oklahoma (ii) that has been taken into trust by the Department of the Interior of the United States of America, (iii) which land becomes eligible for gaming by the Wyandotte Tribe of Oklahoma, and, (iv) on which land a facility of any kind is opened by the Wyandotte Tribe of Oklahoma in which they operate more than 500 electronic gaming devices.

2. **Date Agreement Becomes Binding.** This Agreement will become effective and binding on the Effective Date; except that the parties agree that Paragraphs 2, 8, 20, 28, 30, 31, 54, 57, 58, 60, 66, 70, 71 and 72 will become effective and binding on the parties immediately upon this Agreement's approval by the Commission.

3. **Term of Agreement.** This Agreement will terminate fifteen (15) years after the Commencement Date or by operation of law, unless this Agreement is terminated earlier, renegotiated, or renewed, in accordance with the terms set out below.

4. **Commencement Date Deadline.** The Commencement Date will occur no later than 30 months after the Effective Date. This deadline will be extended by the number of days determined by the Executive Director that Manager is unable to perform its responsibilities under this Agreement due to:

- a) Court order restricting the authority of the Commission or the Kansas Lottery to own and operate Lottery Facility Games at the Lottery Gaming Facility under the Kansas Expanded Lottery Act or under this Agreement, or enjoining Manager from performing under this Agreement;
- b) Any force majeure cause as provided in Paragraph 63;
- c) Any other reason determined by the Executive Director in his sole discretion that adversely impacted Manager's ability to perform; or
- d) Any delay, not caused or enhanced by Manager, in Manager securing any and all licenses, credentials, permits and approvals necessary to construct and operate the lottery Gaming Enterprise, or any aspect thereof, provided that Manager shall have made timely application for such permits and approvals, and shall have diligently prosecuted the same.

5. **Renewal of Agreement.** Prior to the expiration of this Agreement the Commission may negotiate a new Lottery Gaming Facility management contract with Manager if the new contract is substantially the same as this Agreement. This new agreement will be in writing and will set out the terms under which the renewal is to be effective.

6. **Manager's Representations and Warranties.** Manager represents and warrants to the Kansas Lottery as follows:

- a) Manager is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Kansas, and is duly qualified to do business as such in Kansas.
- b) Manager has full power, authority, and legal right to perform and observe the provisions in this Agreement, the requirements imposed by the Kansas Expanded Lottery Act, the rules and regulations imposed by the Commission, and the rules and regulations imposed by the Kansas Racing and Gaming Commission.
- c) Subject to the condition that all approvals required by the Kansas Expanded Lottery Act are obtained, this Agreement constitutes a valid and binding obligation on Manager that is fully enforceable in accordance with its terms, and does not constitute a breach of, or default under, any other agreement to which Manager is a party or any of its assets are bound or affected.
- d) During this Agreement's term, Manager will, at its own expense, keep in full force and effect its legal existence, rights and franchises required in order for it to observe all of this Agreement's terms and conditions. Upon receiving any information or notice contrary to the representations contained in this subsection during this Agreement's term, Manager must immediately notify the Executive Director in writing with full details regarding the same.
- e) Manager has acquired fee title or the ability to acquire fee title to the premises on which the Lottery Gaming Facility will be located, free and clear of any liens, encumbrances, covenants, charges, burdens or claims, except (i) those which do not materially and adversely affect the use by Manager of the premises as a Lottery Gaming Enterprise, and (ii) any secured liens directly related to the Lottery Gaming Enterprise, which will be disclosed to the Executive Director concurrently with Manager's acquisition of the property or for which the Executive Director's prior approval has been obtained.
- f) The Lottery Gaming Enterprise and the operations thereof at all times will conform in all material respects with all applicable material zoning, planning, building, licensing, and environmental laws and regulations of governmental authorities (federal, state, or local) having jurisdiction over the Lottery Gaming Enterprise, including any amendments to such laws or regulations occurring after this Agreement's execution. Such laws include, but are not limited to, the federal Money Laundering Control Act of 1986, the Bank Secrecy Act of 1970, and the USA Patriot Act of 2001, and amendments thereto. The Manager shall defend, indemnify and hold the Kansas Lottery and the State of Kansas and all employees of the Kansas Lottery and the State of Kansas harmless from any liability or expenses resulting from any failure by the Manager to comply with the provisions of this subsection (f).
- g) There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body pending or, to the knowledge of the Manager, threatened against or affecting the Manager or its principals, and in which an adverse result would in any way diminish or adversely impact the Manager's ability to fulfill its obligations under this Lottery Gaming Facility Management

Contract. No revenue bonds, state tax abatement, local tax abatement, tax increment financing or similar financing will be used to finance or will be applied to any part of Manager's Lottery Gaming Enterprise.

- h) The Lottery Gaming Enterprise will comply in all material respects with all environmental laws and regulations, and, except in material compliance with environmental laws and regulations agrees that to the best of its knowledge (1) that no pollutants, contaminants, solid wastes, or toxic or hazardous substances will be stored, treated, generated, disposed of, or allowed to exist at the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations, except in compliance with all applicable laws; (2) Manager will take all reasonable and prudent steps to prevent an unlawful release of hazardous substances onto the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations or onto any other property; (3) that no asbestos will be incorporated into or disposed of on the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations; (4) that no underground storage tanks will be located on the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations, except as approved by the Executive Director; and (5) that no investigation, order, agreement, notice, demand or settlement with respect to any of the above is threatened, anticipated, or in existence with respect to the Lottery Gaming Facility or the location of any related Ancillary Lottery Gaming Facility Operations. Upon receiving any information or notice contrary to the representations contained in this subsection, Manager must promptly notify the Executive Director in writing with full details regarding the same. Manager and its principals have executed the Environmental Compliance Agreement attached as Exhibit A. Manager shall defend, indemnify and hold the Kansas Lottery and the State of Kansas harmless from any liability or expenses resulting from any failure by Manager to comply with the provisions of this subsection (h).
- i) Manager will provide to the Executive Director a certificate or certificates of insurance containing all of the insurance provision requirements provided in this Agreement as follows: as respects the builder's risk and liability including worker's compensation covering construction activities, prior to the commencement of construction activities, and as respects all other insurance, prior to the commencement of any operations presenting an insurable risk. Each insurance policy obtained by Manager to comply with the insurance provision requirements must provide that if the insurance is canceled for any reason whatsoever, or the same is allowed to lapse or expire, or there be any reduction in amount, or any material change is made in the coverage, such cancellation, lapse, expiration, reduction or change shall not be effective as to the Kansas Lottery or the State of Kansas until at least thirty (30) days after receipt by the Executive Director of written notice by the insurer of such cancellation, lapse, expiration, reduction or change.
- j) Manager will comply with all requirements imposed by the Kansas Racing and Gaming Commission now or in the future for the oversight of all operations at the Lottery Gaming Facility including, but not limited to: oversight of internal controls; adherence to technical standards adopted by the Kansas Racing and Gaming Commission; oversight of security; performance of background investigations;

determinations of qualifications and any required certifications, credentialing or licensing of Manager's officers, directors, board members, employees, contractors and agents; auditing of Lottery Gaming Facility Revenues; maintenance and integrity of all Lottery Facility Games approved by the Executive Director for play at the Lottery Gaming Facility; maintenance of facility exclusion lists; player tracking, rewards, clubs, coupons or other incentive programs; oversight of progressive payout systems and programs; oversight of unclaimed winnings; oversight of lost patron monies; or responsible gaming. Manager understands and agrees that failure to adhere to the Kansas Racing and Gaming Commission's rules, regulations, or technical standards may result in the imposition of fines, or other sanctions or penalties against Manager. Upon receiving any information or notice claiming a violation of any requirement of the Kansas Racing and Gaming Commission or any other governmental entity with jurisdiction over gaming-related activities after the Effective Date, Manager must immediately notify the Executive Director in writing with full details regarding the same.

- k) Manager, at a minimum, meets and will continue to meet the following criteria: (1) has sufficient access to financial resources to support the activities required of it by this Agreement and the Kansas Expanded Lottery Act; (2) is current in filing all applicable tax returns and in payment of all taxes, interest and penalties owed to the state of Kansas and any taxing subdivisions where the Manager is located in the state of Kansas, excluding items under formal appeal pursuant to applicable statutes; and (3) Manager or its direct or indirect principals, affiliates or officers and/or members have at least three consecutive years' experience in the management of gaming which would be class III gaming, as defined in K.S.A. 46-2301, and amendments thereto, operated pursuant to state or federal law.
- l) Manager will comply with all applicable rules and regulations imposed now, or in the future, by the Kansas Lottery.
- m) Except as may be authorized by applicable law and confirmed in writing by the Executive Director, Manager will not own, lease, license, or control the rights to: (1) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device required to operate the games available for play on the Lottery Facility Games, (2) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device containing information regarding or affecting an Lottery Facility Game's chance of winning, awarding of Prizes, or setting the consideration paid by a Player, such as the random number generator or payout tables; (3) any CPUs or other electronic components involved in the operation and calculation or display of game play (e.g., game controller electronics and components housing the game or system firmware program storage media or EPROMS); or (4) any communication controller electronics, and components housing the communication control program that is used for communicating financial data, program information and security events to the central computer authorized by the Executive Director for purposes of security, real-time monitoring and auditing, as well as ticket validation and any other system used that

affects the integrity of the Lottery Facility Games made available at the Lottery Gaming Facility.

- n) Manager acknowledges and agrees the State of Kansas, acting through the Commission and the Kansas Lottery, pursuant to their statutory authority, has the sole right to own, lease and operate the Lottery Facility Games placed at the Lottery Gaming Facility and has the full, complete and ultimate ownership and operational control of the gaming operation of the Lottery Gaming Facility. Manager further acknowledges and agrees the Kansas Lottery explicitly retains the power to overrule any action of Manager affecting the gaming operation without prior notice and the Kansas Lottery retains full control over all decisions concerning Lottery Facility Games. No Gray Machines will be permitted at the Lottery Gaming Facility.
- o) Manager, on behalf of the Kansas Lottery, will be responsible at all times for processing payment of all Prizes and matters relating thereto, including the withholding of income taxes and reporting of Prizes in accordance with all applicable laws and regulations.
- p) Manager has a resolution of endorsement from the governing body of the city or county where the Lottery Gaming Facility will be located, which is attached as Exhibit B.
- q) The undersigned is duly authorized to execute and deliver this Lottery Gaming Facility Management Contract on behalf of Manager.

7. **The Kansas Lottery's Representations and Warranties.** The Kansas Lottery represents and warrants to Manager as follows:

- a) The Kansas Lottery is duly established under the Kansas Lottery Act and the Kansas Expanded Lottery Act, and has the power to enter into the transactions contemplated by this Lottery Gaming Facility Management Contract and to carry out its obligations. Based upon the representations of Manager as to the utilization of the Lottery Gaming Facility, the Kansas Lottery has the authority to take the actions contemplated by applicable statute.
- b) The Executive Director is duly authorized to execute and deliver this Lottery Gaming Facility Management Contract.
- c) Neither the execution and delivery of this Lottery Gaming Facility Management Contract, the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the provisions of this Agreement will conflict with or result in a breach of any of the terms, conditions or provisions of any other contract to which the Commission or Kansas Lottery is a party or by which either is bound, or will constitute default under any of the foregoing.

8. **Kansas Expanded Lottery Act Litigation.** Manager acknowledges it enters into this Agreement with the understanding that the Kansas Expanded Lottery Act and/or the implementation of that Act by the Kansas Lottery or the Commission, may come under review by courts of

competent jurisdiction from time to time during this Agreement's term. Manager agrees it will proceed with its responsibilities under this Agreement at its own risk as to the Kansas Expanded Lottery Act's validity, or the validity of the implementation of that Act by any state agency, except that nothing in this section will be interpreted to restrict, waive or delete any rights Manager may have to seek repayment of Managers' privilege fee if the Kansas Expanded Lottery Act were to be amended or repealed by a legislative body or declared unconstitutional in a future proceeding. At the time of the execution of this Agreement, anything contained in this Agreement notwithstanding, Kansas Lottery hereby represents and warrants, to the knowledge of Kansas Lottery, that there is no action, suit, proceeding, at law or in equity, before or by any court, public board or body, naming the Kansas Lottery as a party, arising out of or in connection with the Kansas Expanded Lottery Act (including constitutionality and the applicant contracting process.) In the event litigation is commenced, against Manager or the Kansas Lottery, arising out of or in connection with the Kansas Expanded Lottery Act (including constitutionality, implementation, and the applicant contracting process) related to this Agreement and requesting relief in the form of an injunction or termination of this Agreement or the invalidation of the Kansas Expanded Lottery Act, and the Plaintiff's constitutional claims are successful through trial court rulings on motions for summary judgment, Manager may suspend construction, if not yet complete, until receipt of an order, at the trial level or on appeal, upholding the Kansas Expanded Lottery Act or its implementation as applied to this Agreement.

9. **Required Approvals Prior to this Agreement Becoming Effective.** Subject to the terms of Paragraph 2, this Agreement will not become effective until it is approved, as required by the Kansas Expanded Lottery Act, by all three of the following public entities: (a) the Commission; (b) the Lottery Gaming Facility Review Board; and (c) the Kansas Racing and Gaming Commission.

10. **Conditions Precedent to Lottery Gaming Facility Opening.** Prior to permitting initial public access to the Lottery Gaming Facility, Manager must (as and when applicable):

- a) Be in compliance with all statutory requirements imposed by the Kansas Expanded Lottery Act, as amended, for placing Lottery Facility Games at the Lottery Gaming Facility.
- b) Be in compliance with all rules and regulations, written policies, or written standards imposed by the Kansas Lottery Commission for placing Lottery Facility Games at the Lottery Gaming Facility.
- c) Be in compliance with all rules and regulations, licensing requirements, written policies, or written standards imposed by the Kansas Racing and Gaming Commission for placing Lottery Facility Games at the Lottery Gaming Facility.
- d) Have in an operational condition Manager's portion of the central communication system specified by the Executive Director for the purposes of security, monitoring and auditing of Electronic Gaming Machines placed at the Lottery Gaming Facility.
- e) Have current written approvals from the Executive Director for all Lottery Gaming Facility activities as required by this Agreement.
- f) Be in compliance with all material local zoning requirements applicable to the Lottery Gaming Facility.

- g) Have delivered to the Secretary of State, with a copy to Executive Director, Manager's irrevocable consent to the jurisdiction and courts of the State of Kansas in accordance with K.S.A. 2008 Supp. 74-8755.
- h) Obtain and maintain all necessary governmental permits and licenses/certifications when and as may be required by law in connection with the operation of the Lottery Gaming Enterprise.
- i) Be in compliance with all other requirements in this Agreement as and when applicable.

11. **Manager's Business Plan.** The Executive Director and Manager will jointly develop a Business Plan, which will be based upon and not inconsistent with Manager's Application for Lottery Gaming Facility Manager, promptly after the Effective Date. This Business Plan will provide for the Lottery Gaming Facility's pre-opening activities in preparation for operation after the Commencement Date, hours of operation with 24 hour operations seven days a week being permitted by the Executive Director, advertising, marketing, public relations, number and type of Lottery Facility Games to be available to the public, process for selection of such games, Prizes, theoretical hold percentages, budget, Promotional Credits and procedures for controlling and accounting for the use of Promotional Credits, Promotional Items and procedures for controlling and accounting for the use of Promotional Items, special events or activities planned or anticipated by Manager during the period of time covered by the Business Plan, and other management activities to be performed by Manager consistent with the Kansas Expanded Lottery Act and applicable law that either the Manager or the Executive Director wants to address in the Business Plan. Once approved by the Executive Director, Manager will implement the approved Business Plan. The Executive Director, in consultation with Manager, may amend the Business Plan from time to time to promote the Lottery Gaming Facility's competitive position in the market in order to enhance, to the extent profitable to Manager, Lottery Gaming Facility Revenues. At any time, Manager may propose to the Executive Director for his approval any amendments to the Business Plan, which approval may be withheld in his sole discretion. The initial Business Plan will include Manager's proposed name for the Lottery Gaming Facility, which must be approved by the Executive Director. Any subsequent change to the facility's name must be approved by the Executive Director.

12. **Ancillary Lottery Gaming Facility Operations.** At the same time that Manager and the Executive Director develop a proposed Business Plan for the Lottery Gaming Facility, Manager separately will provide the Executive Director with Manager's anticipated business plan and budget for all Ancillary Lottery Gaming Facilities Operations that Manager anticipates developing in conjunction with the Lottery Gaming Facility, such as restaurants, hotels, motels or entertainment facilities. Manager agrees not to conduct any Ancillary Lottery Gaming Facility Operations that the Executive Director determines in his sole discretion would: (a) result in an appearance that reflects adversely on the Kansas Lottery or the Kansas Lottery Commission as the owner and operator of the Lottery Facility Games; or (b) violate any regulatory standards or local zoning laws.

13. **Lottery Gaming Facility Construction.** Manager will diligently construct at its own expense the Lottery Gaming Facility substantially in accordance with Manager's Application for Lottery Gaming Facility Manager and the plans and specifications. Prior to beginning construction, the Executive Director must approve the final plans and specifications for the Lottery Gaming



Facility (or in lieu thereof such other construction-related documents acceptable to the Executive Director that are suitable for this purpose) to ensure construction will conform with the Manager's Application for Lottery Gaming Facility Manager and Manager's representation to the Kansas Lottery Commission, Lottery Gaming Facility Review Board, the Kansas Racing and Gaming Commission, or the governing body of the city or county where the Lottery Gaming Facility is to be located. With the approval of the Executive Director, Manager retains the option, but is not obligated, to construct a temporary Lottery Gaming Facility under the terms of this Agreement and the Kansas Expanded Lottery Act. All construction of the Lottery Gaming Facility must be completed and the Lottery Facility Games ready for play by the public within that facility no later than 33 months after the Effective Date, unless a time extension is approved by the Executive Director. The schedule setting out Manager's anticipated benchmarks for construction completion is attached as Exhibit C. For each month between the Effective Date and the Commencement Date, Manager will report no less than monthly as directed by the Executive Director on Manager's progress toward completing construction, implementing the Business Plan, and opening the Lottery Gaming Facility to the public. No material alterations to the scope and design of the plan for the Lottery Gaming Facility increasing or decreasing the total costs by more than one percent (1%) of the total cost provided for in Manager's Application for Lottery Gaming Facility Manager may be made without the Executive Director's written approval unless such change materially affects the floor plan, surveillance, or security for the Lottery Gaming Facility in which case the Executive Director's approval is required for any material change regardless of the dollar amount. The Executive Director will promptly notify Manager of his approval or rejection of any proposed change. Manager will not need to obtain the Executive Director's approval for expenditures covered by the Manager's contingency budget.

**14. Construction Related to Ancillary Lottery Gaming Facilities Operations.**

Manager, at its sole cost and expense, must diligently construct the buildings and related improvements for its Ancillary Lottery Gaming Facility Operations substantially in accordance with Manager's Application for Lottery Gaming Facility Manager, Exhibit C, and Manager's representations to the Kansas Lottery Commission, Lottery Gaming Facility Review Board, the Kansas Racing and Gaming Commission, or the governing body of the city or county where the Lottery Gaming Facility is to be located. In addition to any other remedy available to the Executive Director under this Agreement, solely with respect to this Paragraph 14, Manager's failure to substantially perform its Ancillary Lottery Gaming Facility Operations obligations according to objectively verifiable standards (for example, if the plans provide for the building of a restaurant and the restaurant is not built) and, provided such failure cannot be disputed in good faith, will authorize the Executive Director to withhold payment of Manager's compensation for which it would otherwise be entitled under Paragraph 26, less such amounts necessary for Manager to meet all cash operating payments, obligations and liabilities payable pursuant to the Budget and debt service payments payable to third-party lenders, after the date that is forty-five (45) days following the Executive Director's written notice to Manager of such failure to construct the Ancillary Lottery Gaming Facility Operations, until the breach is cured. If the Executive Director withholds Manager's compensation as provided in this paragraph, he will deposit the applicable funds in an interest bearing account, which account (to the extent of Manager's interest therein) can be pledged to lender subject to Executive Director's rights therein, until the Executive Director determines the breach is cured, at which time the compensation and interest held by the Executive Director will be promptly returned to Manager. Provided, however, if within 180 days of the date each amount is withheld as provided herein, Manager has not cured such default or has commenced a cure for such default but is not prosecuting the same to completion, the Kansas Lottery shall be entitled to retain each amount and interest so withheld.

15. **Manager's Construction-Related Responsibilities.** Manager will be responsible for the management, construction, and all aspects of construction-related activities concerning the Lottery Gaming Facility and the buildings and related improvements for its Ancillary Lottery Gaming Facility Operations. These responsibilities include, but are not necessarily limited to, the following:

- a) The direction of all construction activities;
- b) The direction and coordination of the performance of the architect, the other consultants and contractors;
- c) Causing all construction activities to be carried out in a good and workmanlike manner, all in substantial compliance with the Manager's Application for Lottery Gaming Facility Manager;
- d) Preparing the Lottery Gaming Facility to accommodate the central communication system as required by the Executive Director in accordance with the vendor contract for that central communication system, including installation of all specified power and communication services;
- e) Correcting or remedying or causing to be corrected or remedied, any violations of applicable law;
- f) Arranging for the preparation of all working drawings and specifications;
- g) Preparing or arranging for the preparation of all construction contracts and arranging for the preparation and execution of all other related documentation required in accordance with the development obligations undertaken by Manager;
- h) Securing financing, if necessary, including mortgage liens on the real property and improvements and liens on personal property, for the construction of the Lottery Gaming Facility or the building and improvements related to the Ancillary Gaming Facility Operations, including completing the necessary documentation therefor;
- i) Maintaining appropriate cost-accounting records in accordance with generally accepted accounting principles;
- j) Obtaining all necessary government approvals, consents, permits, and licenses/certifications;
- k) Providing legal support related to the development and construction responsibilities undertaken by Manager; and
- l) Ensuring all required insurance is maintained in force.
- m) Provide information to any representative of the Kansas Lottery on any and all construction issues and allow periodic inspection of the construction progress, to

ensure the statutory minimum required investment is met, that the Manager's application proposal is being met, and that budgets are adhered to. This independent representative will be hired by the Kansas Lottery at Manager's cost or may be a third party construction monitor already engaged at the Lottery Gaming Facility by or on behalf of a lender or otherwise, as approved by the Executive Director.

- n) In addition to the foregoing, in the event that a Tribal Gaming Facility commences operations in the South Central Gaming Zone after the Effective Date of this Contract, the Manager may suspend the proposed investment schedule set forth in Exhibit C attached hereto for Phases designated as 1B, 2A, and/or 2B for a period up to seven hundred and thirty (730) days from the first commencement of operations at the Tribal Gaming Facility to evaluate the economic impact, if any, of the new Tribal Gaming Facility. In no event shall any portion of the schedule for the Phase designated as 1A be suspended.

If the Manager suspends any proposed investment the Manager shall:

- (i) Notify the Lottery which investments specified in Exhibit C are affected by such suspension; (ii) Begin an immediate evaluation to determine the economic impact of the new Tribal Gaming Facility; and (iii) Upon conclusion of the evaluation, but not later than 730 days after suspension of the investment schedule, the Manager shall provide a detailed report to the Lottery regarding the financial impact of the Tribal Gaming Facility. Such report may propose potential alternative remedies to the financial impact of the Tribal Gaming Facility other than those identified in Exhibit C. Such alternative remedies may include:

A. Requesting that the Lottery immediately either exercise its right under K.S.A. 2008 Supp. 74-8734 (p) to negotiate and enter into a new Contract on substantially the same terms as contained herein to be effective at the end of the current term of this Contract, or renew this management Contract at the end of the term. Any new Contract or renewals of this Contract shall be conditioned upon the Manager performing its obligations under this Contract, using sound business practices and procedures, and being in compliance with this Contract. That, however, any such new or renewed Contract shall not relieve the Manager from complying with the construction requirements of this Contract as provided in Exhibit C, and within one hundred forty four months of the Commencement Date completion of the minimum investment in infrastructure requirements set forth in K.S.A. 74-8734(g)(2); and/or

B. Additional amenities or investments not included in Exhibit C that would better situate the Lottery Gaming Facility to compete against the Tribal Gaming Facility;

If the Lottery, in its discretion, does not accept the alternative remedies as proposed by the Manager, the Manager may discontinue or decline to implement some or all of the phases designated as 2A on Exhibit C of this Contract following notification of its intent in writing prior to the end of the 730-day suspension period; provided, however, that any reduction in infrastructure investment shall not reduce the total investment in infrastructure below \$225,000,000.

16. **Exclusive Use of Lottery Gaming Facility.** The Lottery Gaming Facility will be used exclusively for the playing of Lottery Facility Games owned and operated by the Kansas Lottery, and the ancillary management activities approved by the Executive Director, which may include, but are not limited to, beverage service, food service, entertainment, retail, promotional, and ATM facilities. Manager may not permit any other business activities within the Lottery Gaming Facility without the prior written consent of the Executive Director.

17. **Approval of Manager's Floor Plan.** Prior to opening the Lottery Gaming Facility, Manager must submit its proposed floor plan to the Executive Director for approval. This floor plan must show the location of all Lottery Facility Games, count rooms, cages and other equipment and facilities to be contained within the Lottery Gaming Facility. No material change affecting surveillance or security, or any other material aspect of operations may be made to the approved floor plan without the Executive Director's prior written approval. Manager must perform its duties in accordance with the floor plan approved by the Executive Director, except to the extent necessary for Manager to implement pre-approved changes to the plan. The Executive Director, after consultation with Manager, will determine the location within the floor plan for each game, or type of game, to be offered to the public at the Lottery Gaming Facility.

18. **Approval of Manager's Surveillance Plan.** Prior to opening the Lottery Gaming Facility, Manager must submit its proposed surveillance plan to the Executive Director for approval. This surveillance plan at a minimum must contain all items required by applicable rule and regulation. No material change to the approved surveillance plan may be made without the Executive Director's prior written approval. Manager must perform its duties in accordance with the surveillance plan approved by the Executive Director, except to the extent necessary for Manager to implement pre-approved changes to the plan.

19. **Approval of Manager's Security Plan.** Prior to opening the Lottery Gaming Facility, Manager must submit its proposed policies and procedures relating to security to the Executive Director for approval. This security plan at a minimum must contain all items required by applicable rule and regulation. No material change to the approved security plan may be made without the Executive Director's prior written approval. Manager must perform its duties in accordance with the security plan approved by the Executive Director, except to the extent necessary for Manager to implement pre-approved changes to the plan.

20. **Privilege Fee Payment.** No later than thirty (30) days after the Commission approves this Agreement, Manager must pay to the state treasurer of the State of Kansas a privilege fee of \$25 million. This payment to the state treasurer will be deposited into the state treasury and credited to the Lottery Gaming Facility Manager Fund, which is a temporary fund created pursuant to the Kansas Expanded Lottery Act. Notwithstanding any other provision in this Agreement, if Manager

fails to pay this privilege fee within 30 days after the Commission's approval, this Agreement will be void and Manager will forfeit any rights it may have to be a Lottery Gaming Facility Manager under the Kansas Expanded Lottery Act. Once all required approvals for this Agreement are obtained in accordance with the Kansas Expanded Lottery Act, the Manager's privilege fee will be transferred from the Lottery Gaming Facility Manager Fund to the Expanded Lottery Act Revenues Fund as provided by law. If (a) the required approvals for this Agreement are not obtained in accordance with the Kansas Expanded Lottery Act or (b) if Manager withdraws its application to be Lottery Gaming Facility Manager in the South Central Gaming Zone prior to approval of the Kansas Racing and Gaming Commission, the Executive Director will promptly direct the state treasurer to refund, without interest, Manager's privilege fee payment.

21. **Lottery Facility Game Ownership.** The Manager must purchase or lease, on behalf of the State of Kansas, for the Kansas Lottery all Lottery Facility Games, including all necessary equipment such as approved tables, felt, dice, cards, chips, layouts, or intellectual property rights as determined by the Executive Director. Manager has no authority under this Agreement to own, purchase or lease any Lottery Facility Games, except on behalf of the State of Kansas and through the Kansas Lottery. The Executive Director, in consultation with Manager, will select the Lottery Facility Games to be offered for play at the Lottery Gaming Facility and determine the Prizes to be awarded for the play of such games. The Executive Director will determine and approve all rules of play and gaming policies that are applicable to the play of all Lottery Facility Games offered at the Lottery Gaming Facility. Notwithstanding the foregoing, Manager may grant a security interest in all Lottery Facility Games arising in connection with the financing and/or lease of same. So long as Manager complies with its duties to the Kansas Lottery under this Agreement and the Kansas Expanded Lottery Act, the Kansas Lottery agrees that the Manager may manage the Lottery Gaming Facility and its investment in the Lottery Gaming Facility in a manner that maximizes its profitability.

22. **Control Software Licensing and Ownership.** The Kansas Lottery will be the licensee, owner and possessor of the right to use all control software and logic chips required to operate the games available on the Lottery Facility Games at the Lottery Gaming Facility. This includes: (a) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device required to operate the games available for play on the Lottery Facility Games, (b) any software, hardware, computer chip, EPROMS (erasable, programmable, read-only memory), flash drives, CD-ROM or other computerized device containing information regarding or affecting a Lottery Facility Game's chance of winning, awarding of prizes, or setting the consideration paid by a Player, such as the random number generator or payout tables; (c) CPUs and other electronic components involved in the operation and calculation or display of game play (e.g., game controller electronics and components housing the game or system firmware program storage media or EPROMS); or (d) communication controller electronics, and components housing the communication control program that is used for communicating financial data, program information and security events to the central computer authorized by the Executive Director for purposes of security, real-time monitoring and auditing, as well as ticket validation and any other system used that affects the integrity of the Lottery Facility Games made available to Players at the Lottery Gaming Facility. Manager will transfer to the Kansas Lottery any rights obtained by Manager to use all control software and logic chips required to operate the games available on the Lottery Facility Games available to Players at the Lottery Gaming Facility. The Executive Director must approve all agreements concerning software licensing and

ownership affecting the Lottery Facility Games made available to Players at the Lottery Gaming Facility.

23. **Daily Electronic Payment of Lottery Gaming Facility Revenues.** Manager must pay all Lottery Gaming Facility Revenues daily to the Executive Director as provided by applicable regulation. Manager will make this payment electronically in accordance with the Executive Director's written instructions, which will conform to necessary banking practices. These instructions may be changed from time to time in the Executive Director's sole discretion with reasonable notice to Manager. The Executive Director, in consultation with Manager, will develop a process so that Manager may audit and reconcile Lottery Gaming Facility Revenues after the daily payments are made. Notwithstanding any other provision in this Agreement, Manager's failure to make a daily electronic payment of Lottery Gaming Facility Revenues as required by this Agreement will be deemed an event of default unless the payment cannot be achieved due to the unavailability of bank services, force majeure events, or malfunctions in the central communications system not within Manager's control in which case the payment must be made on the first succeeding day that such services are available or such events or malfunctions cease. Manager's failure to comply with this paragraph will authorize the Executive Director in his sole discretion to immediately terminate this Agreement if Manager does not cure its failure within 24 hours of receiving written notice of Manager's failure to comply, provided that Manager's failure to make the required daily payment is not intentional.

24. **Payment Obligation is Unconditional.** Manager's obligation to make the daily payments of all Lottery Gaming Facility Revenues required above is a general obligation of Manager and is absolute and unconditional irrespective of any defense or any rights of setoff, recoupment, or counterclaim Manager may otherwise have against the Commission, the Kansas Lottery, or any agency of the State of Kansas. Manager agrees it will not suspend, discontinue or abate any daily payment required above for any cause whatsoever including, without limiting the generality of the foregoing, failure of consideration, destruction of or damage to the Lottery Gaming Facility, commercial frustration of purpose, any change in the tax or other laws, any administrative rulings of or administrative actions by the State of Kansas or any political subdivision thereof, or any failure by any agency or entity acting on behalf of the State of Kansas to perform and observe any agreement, whether expressed or implied, or any duty, liability or obligation arising out of or in connection with this Lottery Gaming Facility Management Contract, or otherwise. Subject to the foregoing provisions, nothing contained in this paragraph shall be construed to release the Kansas Lottery from the performance of any of the agreements on its part contained in this Lottery Gaming Facility Management Contract or to affect Manager's right to seek reimbursement or damages from the Kansas Lottery as provided in this Agreement. Manager must not grant, authorize or permit any interest in the Lottery Gaming Facility Revenues that are to be remitted daily to the State to be given to anyone.

25. **Setoff Right Against Manager.** Any amounts owed to Manager under this Agreement are subject to set off by the state, municipalities, or certain others in accordance with K.S.A. 75-6201, *et seq.*, and amendments thereto.

26. **Total Compensation Paid to Lottery Gaming Facility Manager.** As its sole compensation for the management services for the Lottery Gaming Facility as set out in this Agreement, Manager will be paid the following percentages of the Lottery Gaming Facility

Revenues generated at the Lottery Gaming Facility calculated with respect to the then current Fiscal Year, as follows:

- 73% of all Lottery Gaming Facility Revenues up to \$250 Million;
- 72% of all Lottery Gaming Facility Revenues above \$250 Million provided no other gaming facility offering Class II electronic bingo gaming or Class III gaming within the South Central Gaming Zone. If other Class II electronic bingo gaming or Class III gaming is offered within the South Central Gaming Zone the Manager's share shall be increased to 73% of all Lottery Gaming Facility Revenues.

The Executive Director will direct this payment to Manager on no less than a monthly basis, in arrears, based on the previous period's Lottery Gaming Facility Revenues. Before paying the Manager, the Executive Director may first deduct Manager's share of Kansas Lottery expenses and share of Kansas Racing and Gaming Commission expenses incurred for oversight and regulation as provided in Paragraph 28 below, or the Manager may be billed for those expenses as the Executive Director may direct. Manager may pledge, encumber or grant any interest in the compensation to be paid Manager, subject to the deductions and setoffs provided for in this Agreement and subject further to the Executive Director's authority under Paragraph 14.

**27. Payments to Problem Gaming and Addictions Grant Fund and Local Governments.** Manager acknowledges and agrees the Executive Director will cause two percent (2%) of Lottery Gaming Facility Revenues to be paid to the problem gaming and addictions grant fund established by K.S.A. 2008 Supp. 79-4805, and amendments thereto. Manager further acknowledges and agrees the Executive Director will cause the applicable percentages to be paid to the city and/or counties in compliance with K.S.A. 2008 Supp. 74-8734(h)(16), and amendments thereto. It is hereby acknowledged and agreed that such payments shall not be paid from the compensation payable to Manager pursuant to paragraph 26.

**28. Manager's Payments for Kansas Lottery's Expenses and Kansas Racing and Gaming Commission's Costs for Oversight and Regulation.** Manager must pay the expenses of the Kansas Lottery and the Kansas Racing and Gaming Commission, as follows:

- a) Manager's share of the Kansas Lottery's expenses directly attributable to Manager and the Kansas Lottery's proportionate share of other expenses incurred for the implementation and operation of the Kansas Expanded Lottery Act and this Agreement will be paid in accordance with this sub-paragraph (a). Expenses incurred by the Kansas Lottery will be billed directly to Manager by the Kansas Lottery within thirty (30) days of the Commission's approval of this Agreement and must be paid by Manager within thirty (30) days of billing. Thereafter, and prior to the Commencement Date, the Executive Director will bill Manager periodically for the Kansas Lottery's expenses and Manager will pay such expenses within thirty (30) days of billing. After the Commencement Date, the Executive Director may deduct Manager's share of Kansas Lottery expenses before making Manager's monthly compensation payment as provided above in Paragraph 26. Manager's share of Kansas Lottery expenses will be calculated by taking the costs incurred by the Kansas Lottery that are directly attributed to Manager and Manager's Lottery Gaming Facility, and adding to that amount the Kansas Lottery's common expenses

attributable to all racetrack and lottery gaming facility managers as a result of the Kansas Lottery's activities pursuant to the Kansas Expanded Lottery Act, which common expenses will be divided equally among all managers.

- b) All costs incurred by the Kansas Racing and Gaming Commission for its oversight and regulation of Manager and the Lottery Gaming Facility in accordance with the requirements for calculating and paying such costs as determined by the executive director of the Kansas Racing and Gaming Commission. Manager acknowledges and agrees this obligation includes the requirement that Manager pay its *pro rata* share of the anticipated expenses of the Lottery Gaming Facility Review Board, which will be billed to Manager after the Kansas Lottery Commission's approval of this Agreement. If Manager fails to pay these expenses when due, this Agreement may be void, and Manager may forfeit any rights it may have to be a Lottery Gaming Facility Manager under the Kansas Expanded Lottery Act ten (10) days after receiving written notice from the Kansas Racing and Gaming Commission of Manager's failure to timely pay. Manager further acknowledges that the executive director of the Kansas Racing and Gaming Commission may assess each manager, whose agreement is approved by the Lottery Gaming Facility Review Board, a proportionate share of all costs incurred by the Kansas Racing and Gaming Commission since 2007 Senate Bill 66 became effective on April 19, 2007, that are attributable to that agency's responsibilities under the Kansas Expanded Lottery Act.
  - c) Manager's share of the expenses incurred for the central computer system, which share will be based proportionately on Lottery Gaming Facility Revenues generated by the Electronic Gaming Machines placed at Manager's Lottery Gaming Facility in comparison to the revenues generated by the Kansas Lottery at Racetrack Gaming Facilities and Lottery Gaming Facilities that are part of the central computer system.
29. **Manager's Maintenance Responsibilities.** Manager must:
- a) Keep the Lottery Gaming Facility and all property and improvements associated with its Ancillary Lottery Gaming Facility Operations in good repair and in a reasonably safe condition;
  - b) Make all necessary repairs and replacements to the Lottery Gaming Facility, including maintaining in an operational condition Manager's portion of the central communication system as required by the Executive Director in accordance with the vendor contract for that central communication system, and all property and improvements associated with its Ancillary Lottery Gaming Facility Operations (whether ordinary or extraordinary, structural or nonstructural, foreseen or unforeseen);
  - c) Maintain the Lottery Gaming Facility and all property and improvements associated with its Ancillary Lottery Gaming Facility Operations in first class condition, ordinary wear and tear excepted, including, without limitation, interior and exterior cleaning, painting and decorating, replacement of lighting fixtures, wall coverings, floors and floor coverings, furnishings, plumbing, electrical, HVAC and any



structural or mechanical repairs and any other maintenance or replacement requirements that may be commercially reasonable.

30. **Prohibitions Applicable to the State.** The Kansas Lottery, acting on behalf of the State of Kansas, agrees by entering into this Agreement that:

- a) Neither the Kansas Lottery nor the State of Kansas will enter into a management contract for, more than four (4) lottery gaming facilities or similar facilities in the four gaming zones outlined in the Kansas Expanded Lottery Act with one Lottery Gaming Facility in each gaming zone;
- b) Neither the Kansas Lottery nor the State of Kansas will designate additional areas of the state where operation of Lottery Gaming Facilities or similar gaming facilities will be authorized, other than those set out in the Kansas Expanded Lottery Act; or
- c) Neither the Kansas Lottery nor the State of Kansas will operate an aggregate of more than 2,800 Electronic Gaming Machines at all pari-mutuel licensee locations.

31. **State Payment for Breach.** Manager will be entitled, as its sole monetary remedy, to payment in an amount equal to the actual privilege fee paid by Manager, plus interest on such amount, compounded annually at the rate of ten percent (10%), if the State of Kansas violates any provision in Paragraph 30 above during the term of this Agreement. The parties acknowledge and agree that nothing in this paragraph will be interpreted to prevent or limit any rights Manager may have to seek specific performance or other equitable relief against the Kansas Lottery or the State of Kansas to enforce the prohibitions contained in Paragraph 30. Nothing in this paragraph will be deemed a waiver of the immunities and protections reserved to the State of Kansas under the Eleventh Amendment to the Constitution of the United States.

32. **Executive Director's On-Site Personnel.** The Executive Director may appoint one or more persons to oversee on-site the Lottery Facility Games at the Lottery Gaming Facility and Manager's performance under this Agreement. Such person(s) will report to the Executive Director, and have such authority as the Executive Director in writing may determine. Such person(s) will oversee operations, observe gaming activities, enforce gaming rules and policies, resolve disputes between Manager and Players, and perform such other tasks as directed by the Executive Director. All determinations made by such persons will be subject to review by the Executive Director, provided that Manager may act and rely upon written and verbal determinations made by the Executive Director's on-site personnel until Manager receives written notice from the Executive Director amending or reversing any such determination.

33. **Deactivation and Possession of Lottery Facility Games.** Upon order of the Executive Director, any or all Lottery Facility Games located at the Lottery Gaming Facility will be subject to immediate deactivation and/or cessation of operation. At any time, the Executive Director will be entitled to physically secure or take possession of any or all Lottery Facility Games and any related equipment necessary to play such games.

34. **Insurance Required.** At the time provided in Paragraph 6(i) above, and at all times thereafter, including without limitation during any period of construction of the Lottery Gaming Facility, Manager must maintain or cause to be maintained insurance against such risks and for such

amounts as are customarily insured against by businesses of like size and type paying, as the same become due and payable, all premiums in respect thereto, including, but not necessarily limited to:

- a) Insurance against loss or damage by fire, lightning, and other casualties, with a uniform standard extended coverage endorsement, such insurance to be in an amount not less than the full replacement value of the Lottery Gaming Facility, exclusive of excavations and foundations, as determined by a recognized appraiser or insurer selected by Manager or an amount not less than the maximum foreseeable loss, as determined by a property insurance carrier provided the policy provides a replacement cost endorsement up to the limit of the policy with customary and reasonable deductibles approved by the Executive Director; or as an alternative to the foregoing, Manager may insure the Lottery Gaming Facility under a blanket insurance policy or policies covering not only the Lottery Gaming Facility but other properties as well, provided a periodic appraisal is performed at intervals determined by the Executive Director and provided to the Executive Director.
- b) Workers' compensation insurance, disability benefits insurance, and each other form of insurance which Manager is required by law to provide, covering loss resulting from injury, sickness, disability or death of Manager's employees who are located at or assigned to the Lottery Gaming Facility.
- c) Commercial General Liability Insurance against loss or losses from liabilities imposed by law or assumed in any written contract and arising from personal injury and death or damage to the property of others caused by any accident or occurrence, with limits of not less than \$10,000,000 per accident or occurrence on account of personal injury, including death resulting there from, and \$10,000,000 per accident or occurrence on account of damage to the property of others, excluding liability imposed upon Manager by any applicable worker's compensation law. These liability limits may be satisfied by any combination of primary and excess liability policies. The primary general liability insurance may have a self-insured retention and the excess liability policy may have a commercially-reasonable deductible, as determined by the Executive Director. These liability insurance requirements may be satisfied by blanket policies in the aggregate amount of not less than \$10,000,000.
- d) Business interruption insurance against the perils enumerated in subparagraph (a) and in amounts determined by the Executive Director to be appropriate and commercially reasonable to protect both the Kansas Lottery's and Manager's financial interests in the revenue produced by the Lottery Gaming Facility.
- e) Employer's practices liability coverage providing customary coverage for alleged violations of local, state or federal civil rights laws or ordinances, or employment discrimination laws.
- f) Employee Dishonesty Combination Crime coverage in amount sufficient to cover all employees employed by Manager who are, or may be, responsible for handling any Lottery Gaming Facility Revenues or other monies belonging to the Kansas Lottery that come under the Manager's custody or control.

35. **Additional Provisions Regarding Insurance.** In addition to the above, Manager must ensure that:

- a) All insurance required in Paragraph 34 above names the Commission, the Kansas Lottery, and the State of Kansas as named insureds, or additional named insureds. All insurance will be procured and maintained in financially sound and generally recognized responsible insurance companies selected by the Manager, but authorized to write such insurance in Kansas. Such insurance may be written with deductible or self-insured retentions approved by the Executive Director in amounts comparable to those on similar policies carried by other companies engaged in the gaming industry for facilities similar in size, character and other respects to the Lottery Gaming Facility. All policies evidencing such insurance must provide for (1) payment of the losses of the Commission, the Kansas Lottery, the State of Kansas, and the Manager as their respective interest may appear, and (2) at least thirty (30) days written notice of the cancellation thereof to the Executive Director and the Manager. Policies referred to in this subparagraph (a) must include both the Kansas Lottery and the Manager as loss payees as their interest may appear.
- b) All certificates of insurance from the insurers that such insurance is in force and effect, must be deposited with the Executive Director on or before the Effective Date, except as provided in paragraph 6(i) above. Prior to expiration of the policy evidenced by said certificates, Manager must furnish the Executive Director with evidence that the policy has been renewed or replaced or is no longer required by this Agreement. Copies of the actual insurance policies will be provided to the Executive Director promptly at his request.
- c) Within one hundred twenty (120) days after the end of each Fiscal Year, the Manager must file with the Executive Director a certificate executed by the Manager to the effect that the insurance it maintains with respect to the Lottery Gaming Facility complies with this Agreement and that duplicate copies of all policies or certificates were filed with the Executive Director and are in full force and effect.

36. **Kansas Lottery's Right to Pay Insurance, Taxes, or Other Charges.** If Manager fails (a) to pay any tax, assessment or other governmental charge required to be paid and not being formally contested by Manager in an appropriate forum with jurisdiction to hear such contests, or (b) to maintain any insurance required to be maintained, the Executive Director, in his discretion, and following written notice to Manager, may authorize the Kansas Lottery to make payment of such tax, assessment, or other governmental charge or the premium for such insurance. Manager will reimburse the Kansas Lottery for any amount so paid together with interest thereon from the date of payment at twelve percent (12%) per annum. The Kansas Lottery may set off such payments from any money otherwise due Manager.

37. **Lottery Gaming Facility Damage, Destruction or Condemnation.** If the Lottery Gaming Facility is damaged, destroyed or condemned (in whole or in part) at any time during the term of this Agreement, Manager must promptly replace, repair, rebuild, or restore the Lottery Gaming Facility to substantially the same condition and value as an operating entity as existed prior to such damage or destruction, to the extent insurance proceeds are available to cover such costs, with such changes, alterations and modifications as may be desired by Manager and approved by the

Executive Director, and may use insurance or condemnation proceeds for all such purposes. If the Lottery Gaming Facility is damaged to an extent that it must be closed for business and Manager elects to rebuild the Lottery Gaming Facility at any point during the term of this Agreement, the term of this Agreement will be tolled until such time repairs and reconstruction of the Lottery Gaming Facility are sufficiently completed so as to allow Lottery Facility Games to be offered for play as determined by the Executive Director. The Kansas Lottery agrees to remit any insurance proceeds it receives as a result of the damage or destruction of the Lottery Gaming Facility or Lottery Facility Games (unless those proceeds are to cover the Kansas Lottery's losses under Sections 23 or 26 of this Agreement) to the Manager for the specific replacement, repair, rebuilding or restoration loss for which the Kansas Lottery received any insurance proceeds. Manager will have no obligation to rebuild the Lottery Gaming Facility if such damage, destruction, or condemnation impacts at least 33% of the Lottery Gaming Facility and occurs within five years prior to the end of this Agreement's term. Manager shall have one hundred-twenty (120) days from the damage or destruction to elect to rebuild. If Manager so elects not to rebuild the Lottery Gaming Facility within the last five years remaining on the term of this Agreement, the term of this Agreement as defined under Section 3 of this Agreement will immediately end and the Kansas Lottery shall have the ability to exercise any rights available to it under the terms of the Kansas Expanded Lottery Act.

38. **Advertising, Marketing, and Promotion.** Manager must use its commercially reasonable efforts to advertise, market, and promote the Lottery Gaming Facility in order to attract the public to the facility and reasonably enhance to the extent profitable to Manager Lottery Gaming Facility Revenues. Manager must comply with all applicable regulatory requirements imposed for such materials and activities. All advertising, marketing and promotion materials employed by Manager must be approved by the Executive Director prior to their first use. Manager agrees that such materials may be disapproved if the Executive Director determines in his sole discretion that such materials would reasonably be expected to offend a substantial number of people, or violate any regulatory standards applicable to such materials. In addition, Manager must make available to the public the odds of winning any prize or prizes for games played on all Lottery Facility Games offered at the Lottery Gaming Facility to the extent possible given the nature of such games and subject to the Executive Director's approval. Advertising, marketing and promotion materials shall include information regarding problem gambling as directed by the Executive Director. Subject to the approval of the Executive Director, Manager may also include the Lottery Gaming Facility in marketing programs which benefit other properties of Manager and its affiliates.

39. **Players' Club.** The Executive Director may institute a Player's club or similar incentive or promotional program applicable to some or all Racetrack Gaming Facilities or Lottery Gaming Facilities owned and operated by the Kansas Lottery. If the Executive Director institutes a Player's club, the Executive Director agrees that: (a) Manager will have no direct or indirect responsibility to fund such a program; (b) Manager will not be required to provide the Executive Director with any customer data under Manager's control for purposes of a Player's club instituted by the Executive Director; and (c) the Executive Director will not institute an incentive or awards programs in such Player's club that is applicable to another Racetrack Gaming Facility or Lottery Gaming Facility without also making it available to Manager for use at the Lottery Gaming Facility. As to subparagraph (b), Manager acknowledges that nothing in subparagraph (b) will be read to restrict the Executive Director's access to any customer data for regulatory, security, responsible gaming oversight, or auditing purposes; and the Executive Director agrees customer data provided by Manager will not be used for any Player's club or similar incentive or promotion program instituted by the Executive Director. Nothing in this paragraph will be read to prevent Manager from instituting

its own Player's club or similar incentive or promotional program at the Lottery Gaming Facility provided that such club or program is authorized by the Executive Director. The Executive Director agrees Manager has the right to establish a Player's club that awards to Players credits based on their play at the Lottery Gaming Facility, provided that such awards programs are approved by the Executive Director.

40. **Players' Tracking System.** The Executive Director may institute a Players' tracking system applicable to some or all Racetrack Gaming Facilities or Lottery Gaming Facilities owned and operated by the Kansas Lottery. Manager will administer such program at the Lottery Gaming Facility as the Executive Director may provide. Nothing in this paragraph will be read to prevent Manager from instituting its own Player's tracking system at the Lottery Gaming Facility provided that such system is authorized by the Executive Director.

41. **Use of Trademarks, Service Marks, Trade Names and Proprietary Information.** Manager is authorized to employ any of the Kansas Lottery's trademarks, trade names, and service marks in any advertising, marketing or promotion for the Lottery Gaming Facility or the Lottery Facility Games placed therein, subject to the Executive Director's right to approve such advertising, marketing or promotion. Manager acknowledges it has no other right regarding the Kansas Lottery's trademarks, service marks, and trade names. Manager will not be required to pay any royalty or other fee for this usage. In addition, the Executive Director may require Manager to place Kansas Lottery's trademarks, trade names, or service marks at locations within the Lottery Gaming Facility as designated by the Executive Director in order to identify the games and gaming equipment as being owned and operated by the Kansas Lottery on behalf of the State of Kansas.

The Kansas Lottery is authorized to employ any of Manager's trademarks, trade names, and service marks in any advertising, marketing or promotion for the Lottery Gaming Facility or the Lottery Facility Games placed therein, subject to the Manager's right to approve such advertising, marketing or promotion. The Kansas Lottery acknowledges it has no other right regarding the Manager's trademarks, service marks, and trade names. The Kansas Lottery will not be required to pay any royalty or other fee for this usage.

To the extent the Kansas Lottery obtains or has access to any Proprietary Information or Trade Secrets as defined in K.S.A. 60-3320 (4)(i)(ii) ("Information") of Manager or its affiliates, the Kansas Lottery agrees: (a) to maintain the confidentiality of such Information; (b) not to use such Information for any purpose other than as permitted under this Agreement; and (c) upon the termination of this Agreement, upon written request from Manager, to return same to Manager (including all copies thereof), including, but not limited to, documents, notes, memoranda, lists, computer programs and any summaries of such Information in the Kansas Lottery's possession or control, but excluding any Information which the Kansas Lottery may retain pursuant to the express terms of this Agreement and that immediately upon termination of this Agreement the Kansas Lottery shall cease using all Information.

To the extent the Manager obtains or has access to any Proprietary Information or Trade Secrets as defined in K.S.A. 60-3320 (4)(i)(ii) ("Information") of the Kansas Lottery, the Manager or its affiliates agree: (a) to maintain the confidentiality of such Information; (b) not to use such Information for any purpose other than as permitted under this Agreement; and (c) upon the termination of this Agreement, upon written request from Kansas Lottery, to return same to the Kansas Lottery (including all copies thereof), including but not limited to documents, notes, memoranda, lists, computer programs and any summaries of such Information in the Manager's possession or control, but excluding any Information

which the Manager may retain pursuant to the express terms of this Agreement and that immediately upon termination of this Agreement the Manager shall cease using all Information.

Subject to the requirements of the Kansas Expanded Lottery Act and with Executive Director approval, Manager may purchase, lease, license, or otherwise obtain and have installed and maintained, either through Manager and its affiliates or Manager's designated suppliers, any computer and other systems that Manager determines to be necessary for management of the Lottery Gaming Facility in accordance with the approved Budget and Business Plans; provided that such systems may not adversely affect the Kansas Lottery's central computer system or affect a Lottery Facility Game's elements of chance, consideration or prize.

42. **Personnel.** Manager will provide, supervise, direct the work of, discharge, and determine the compensation and other benefits of all personnel necessary to provide for the play of Lottery Facility Games at the Lottery Gaming Facility, except as otherwise noted in this Agreement, based upon a staffing plan approved by the Executive Director. Such personnel will not be considered employees of the Kansas Lottery or any other agency or department of the State of Kansas. Manager may determine the compensation to be paid to all of its personnel working at the Lottery Gaming Facility provided that such compensation is within the budget for personnel compensation approved by the Executive Director. Manager must ensure its personnel meet all applicable regulatory requirements imposed by the Commission or the Kansas Racing and Gaming Commission. Manager will not discriminate against any employee or applicant for employment because of race, creed, color, sex, age, or national origin nor violate any applicable law, regulation or local ordinance governing employer obligations.

43. **Personnel Training.** Manager will provide and direct employee recruitment, instructional programs, incentives, and on-the-job training necessary to ensure a first class facility for the playing of Lottery Facility Games by the public. Such trainings and other programs for personnel are subject to the Executive Director's approval, but may be conducted on or off site, on the job, or by instructors at or from educational training facilities.

44. **Key Employees.** Manager agrees the personnel, or positions, as well as any independent contractors designated in Exhibit D, are considered Key Employees, whose ability to participate in the operation or management of the Lottery Gaming Facility are subject to the Executive Director's approval within his sole discretion; provided, however, that nothing in this paragraph will restrict the right of either the Kansas Lottery or the Kansas Racing and Gaming Commission to take action regarding the license/certification held by any of Manager's employees in accordance with applicable statutes or rules and regulations promulgated pursuant to law. The Executive Director may amend the Key Employees list at any time for any reason.

45. **Books and Records; Financial Statements.** Manager must maintain an accurate accounting system in connection with its management of the Lottery Gaming Facility. The books and records will be kept in accordance with generally accepted accounting principles maintained in accordance with current industry standards for similar gaming businesses. The books and records shall be maintained at all times either at the Lottery Gaming Facility or at such other locations as may be specified by regulation. The Executive Director, or his designees, shall have the right and privilege of examining these books and records at any time. In addition, the Executive Director may at any time obtain and pay for an audit performed by an independent certified public accountant. If this audit reveals a discrepancy greater than \$10,000 in Lottery Gaming Facility Revenues or a

cumulative discrepancy greater than \$100,000 on any other line items previously reported to the Executive Director from the books and records provided by Manager, the audit's cost will be reimbursed by Manager as a set off from the compensation to be paid Manager pursuant to Paragraph 25 above. On or before the 20<sup>th</sup> day following the close of each month, Manager must furnish the Executive Director with a reasonably detailed operating statement for the Lottery Gaming Facility for that period, including year-to-date results.

46. **Records Retention and Access.** Manager must maintain all books and records regarding the Lottery Gaming Facility for a minimum period of five (5) years, or such other longer period as may be imposed by regulation or statute. Manager must permit access to such books and records as is legally required by law, regulation, or this Agreement, including giving access to the Post Auditor for the Kansas Legislature, the Executive Director or his designee, authorized representatives for the Kansas Racing and Gaming Commission, or any authorized representative of the United States government.

47. **Budget and Business Plans for Each Fiscal Year.** No later than forty-five (45) days prior to the commencement of each Calendar Year, Manager must submit to the Executive Director a budget (the "Budget") and a proposed Business Plan for the Lottery Gaming Facility for such Fiscal Year, containing reasonably detailed revenue and expense projections and providing projections for all expenditures that Manager anticipates to be made, as well as all capital expenditures and expenditures for replacements. The Budget will accompany and be compatible with Manager's proposed Business Plan for the upcoming Fiscal Year. The Budget is intended as, and will represent only, an estimate of the projected revenues and expenditures for the Fiscal Year based upon assumptions believed by Manager to be reasonable at the time of preparation. The Budget and proposed Business Plan for each upcoming Fiscal Year will be subject to the Executive Director's approval and/or amendment. Thereafter, Manager will use reasonable efforts to achieve the budgetary goals reflected in the Budget, but the parties both recognize the Budget cannot be relied upon as an assurance of actual results for such Fiscal Year. Manager must promptly notify the Executive Director of any need to depart in any material way from the Budget if, in Manager's judgment, adherence to the Budget is impractical or if such departure is necessary or desirable for the Lottery Gaming Facility's efficient or profitable operation. Any such deviations from the Budget are subject to the Executive Director's approval. Until such time as a Budget or Business Plan is approved for any fiscal year, Manager may operate in accordance with the previous fiscal year's Budget or Business Plan as approved by the Executive Director. Notwithstanding the foregoing, if the Executive Director objects to any portion of a proposed Budget, Executive Director shall advise Manager of such objection (and deliver to Manager a reasonably detailed description of such objections, the "Disapproved Items") and Manager shall promptly revise the Budget to address the Disapproved Items and shall resubmit the same to Executive Director until Executive Director approves such Disapproved Items. In addition, if any Disapproved Item is required to be paid pursuant to applicable federal, state or local law, rule, regulation, order or statute or by any governmental authority with jurisdiction with respect thereto, the cost and expense of which were approved pursuant to previous Budgets, then Manager shall be permitted to pay the same. Until such time that Executive Director approves such Disapproved Items, the most recently approved Budget shall apply other than with respect to the Disapproved Items with respect to which the previously approved Budget shall apply.

48. **Bank Accounts.** Manager shall establish or facilitate the establishment of the bank accounts listed below:

- a) a special bank account in the name of the Kansas Lottery at a Kansas bank approved by the Executive Director and the Pooled Money Investment Board of the State of Kansas, with the Kansas Lottery being the only party authorized to draw from this account. This bank account will be used by Manager solely to deposit daily receipts of Lottery Gaming Facility Revenues, from which account the Lottery will cause an electronic sweep or otherwise transfer of funds pursuant to Paragraph 23 of this Agreement. Manager will have no right to grant any security interest to anyone regarding these funds or this account.
- b) one account in Manager's name at a bank in a jurisdiction of Manager's choosing for the purposes of receiving its compensation payment from the Kansas Lottery pursuant to Paragraph 26. The Executive Director will cause Manager's portion of the Lottery Gaming Facility Revenues to be electronically deposited into this account monthly;
- c) one or more accounts into which amounts sufficient to cover all operating expenses and other costs of the Lottery Gaming Facility shall be deposited from time to time by Manager (by transfer of funds from the account in Paragraph 48(b) above or otherwise); and
- d) such other accounts as Manager deems necessary or desirable.

49. **Events of Default.** Each of the following will constitute an event of default by Manager:

- a) Manager's failure to pay any amount owed the Kansas Lottery in the manner provided for in this Agreement, subject to Manager's right to cure as provided in Paragraph 23, if the Kansas Lottery decides in its sole discretion to give notice of such default to Manager and, other than with respect to Paragraph 23, if Manager fails to cure such nonpayment within seven (7) days after the date on which such notice was received,
- b) The filing of a voluntary assignment in bankruptcy or insolvency or a petition for reorganization under any bankruptcy law by Manager;
- c) The consent to an involuntary petition in bankruptcy by Manager;
- d) Entry of an order, judgment or decree by any court of competent jurisdiction, on application of a creditor, adjudicating Manager a bankrupt or insolvent or approving a petition seeking reorganization or appointing a receiver, trustee or liquidator of all or a substantial part of Manager's assets, if such order, judgment or decree continues unstayed and in effect for a period of 120 consecutive days; or
- e) Manager's failure to perform, keep or fulfill any other covenant, undertakings, obligations or conditions set out in this Agreement for a period of thirty (30) days after written notice of said failure from the Executive Director (unless a shorter period of time is specified in this Agreement); provided, however, that if the default



is not susceptible of being cured within this thirty (30) day period and the defaulting party with due diligence takes and continues action to cure, then no event of default will be deemed to have occurred until the failure to take or to continue to take such action; or

- f) Withdrawal of any approval granted, loss or suspension of any license/certification issued to Manager by the Kansas Racing and Gaming Commission or any other regulatory entity with jurisdiction over Manager's activities unless such withdrawal, suspension or loss is being contested by Manager in the appropriate forum with jurisdiction over the agency action at issue.

50. **Remedies on Default.** If an event of default occurs as provided above, the Executive Director may, without prejudice to any other legal or equitable remedy which he may have, give Manager notice of the Kansas Lottery's intention to terminate this Agreement after the expiration of thirty (30) days from the date of such notice and upon the expiration of such period, unless another cure period is expressly provided for, this Agreement will be deemed terminated; provided, however, that nothing in this paragraph, or in this Agreement, will be construed to restrict the Executive Director's authority to: (a) immediately cease operation of any or all Lottery Facility Games at the Lottery Gaming Facility for any reason; or (b) physically secure or take possession of any or all Lottery Facility Games and any related equipment necessary to play such games. Manager acknowledges and agrees that once this Agreement is terminated, the Kansas Lottery thereafter will be free to enter into a management contract with a new manager for another Lottery Gaming Facility in the Kansas gaming zone without penalty to the Kansas Lottery or further recourse by Manager. During the thirty (30) day period between Manager's receipt of notice of termination from the Executive Director and such termination becoming effective, the Executive Director shall cooperate in good faith with Manager in any effort undertaken by Manager to locate a third party to acquire the Lottery Gaming Enterprise and assume the obligations of Manager hereunder; provided, however, the Manager expressly acknowledges and agrees that any third party must comply with all statutory and licensure requirements and be able to perform all such obligations hereunder. Notwithstanding the foregoing, Manager further acknowledges that its failure to make any daily electronic payment of Lottery Gaming Facility Revenues as required by Paragraph 23 will authorize the Executive Director in his sole discretion to immediately terminate this Agreement.

51. **Remedies Cumulative.** No remedy conferred upon or reserved to the Kansas Lottery in this Agreement is intended to be exclusive of any other available remedy, but each and every such remedy will be cumulative and in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default will impair any such right or power or will be construed to be a waiver, but any such right and power may be exercised from time to time and as often as may be deemed expedient in favor of the Kansas Lottery.

52. **Surrender Upon Termination.** At the Executive Director's request, Manager agrees that at the expiration or earlier termination of this Agreement, Manager will deliver to the Executive Director, or his designee, all books, records, accounting documents, computerized files, contracts, leases, licenses/certifications, permits or other governmental authorizations, files, supplies, keys, locks safe combinations, insurance policies not maintained as part of Manager's blanket policies, warranty contracts and cards, operating instructions and other information, warranties and guaranties concerning all equipment relating to the Lottery Facility Games, as well as any maintenance or

preventive maintenance programs, schedules and logs, records, inventories of personal property and equipment purchased on behalf of the Kansas Lottery or the State of Kansas, and all other information regarding the Lottery Facility Games, and all accounts and sums held or maintained by Manager on behalf of the Kansas Lottery. Manager will have a reasonable period of time, not to exceed forty-five (45) days from the termination date, to complete all accounting functions with respect to the Lottery Gaming Facility. Manager must cooperate with the Executive Director in changing any bank accounts maintained for the Kansas Lottery's benefit. Manager must take all actions reasonably necessary to facilitate the orderly transition or termination of the management of the Lottery Gaming Facility and must perform all reporting and accounting functions required by this Agreement for the period from the date of the last report or accounting to the termination date. If, at the termination of this Agreement, there are any Lottery Facility Games that were purchased by Manager on behalf of the Kansas Lottery with ownership transferred to the Kansas Lottery, then the Executive Director will transfer ownership of such games to Manager or Manager's designee, if such transfer is lawful; but if such transfer is not lawful, then the Executive Director will refund to Manager the residual value received by the Executive Director in a sale of such game to an eligible buyer.

**53. Agreement to Pay Attorneys' Fees and Expenses.** If Manager defaults under any provision of this Agreement and the Kansas Lottery should employ attorneys or incur other expenses for the collection of amounts payable or to enforce performance or observance of Manager's obligations under this Agreement, Manager must pay, on demand, the reasonable fees of such attorneys and such other expenses incurred by the Kansas Lottery, if the Kansas Lottery is the prevailing party.

**54. Manager's Indemnification Responsibilities.** In addition to any other indemnification obligations provided in this Agreement or by law, to the fullest extent allowed by law, Manager agrees as follows:

- a) To hold and save harmless the State of Kansas, Commission, Commission members, the Executive Director, the Kansas Lottery, Kansas Lottery staff, Kansas Racing and Gaming Commission, Kansas Racing and Gaming Commission members, the Kansas Racing and Gaming Commission's executive director, and Kansas Racing and Gaming Commission staff (each an "Indemnified Party") from liability for injury to persons or damages to property by reason of any cause whatsoever, either in and about the Lottery Gaming Facility or elsewhere, when Manager is carrying out the provisions of, or any way connected with, this Agreement.
- b) To hold and save harmless any Indemnified Party upon demand for any money or other property which they are required to pay out for any reasons whatsoever, whether the payment is for a budgeted expense or any other charges or debts incurred or assumed by Manager, or any other party, or judgments, settlement or expenses in defense of any claim, civil action, proceeding, charge, or prosecution made, instituted or maintained against Manager or an Indemnified Party jointly or severally, affecting or because of the condition or use of the Lottery Gaming Facility, or acts or failure to act by Manager or Manager's agents, or arising out of or based upon any law, regulation, requirement, contract or award related to the hours of employment, working conditions, wages and/or compensation of employees or former employees at the Lottery Gaming Facility, or any other cause in connection with the Lottery

Gaming Facility's management or Manager's activities related to any Ancillary Lottery Gaming Facility Operations. This entire Paragraph 54 does not include any action against the Kansas Lottery or its staff regarding the constitutionality of the Kansas Expanded Lottery Act or misconduct by an Indemnified Party that is found to be negligent or criminal.

- c) To hold and save harmless any Indemnified Party from liability for any claim arising as a result of the selection of Manager under the Kansas Expanded Lottery Act to manage the Lottery Gaming Facility, the denial of some other potential manager in making that selection, the process used in making the selection, or the process used in applying to become a Lottery Gaming Facility Manager under the Kansas Expanded Lottery Act.
- d) To hold and save harmless any Indemnified Party from liability for any violation or breach of this Agreement by Manager, its employees, or agents.
- e) To hold and save harmless any Indemnified Party from liability for any claims alleging negligent acts or omissions by Manager, its officers, employees, agents, board members, contractors, subcontractors or agents in the performance of this Agreement.
- f) To hold and save harmless any Indemnified Party from liability for any claims alleging violations of any intellectual property right for any intellectual property supplied by Manager under this Agreement, including but not limited to, infringement of patents, trademarks, trade dress, trade secrets, or copyrights arising from Manager's performance under this Agreement.

Manager's duties under this paragraph will survive the termination or expiration of this Agreement. To the extent Manager is responsible to defend any Indemnified Party as required under this Agreement, Manager agrees to defend (with counsel approved by the Executive Director), at Manager's sole expense, any Indemnified Party, and to pay on demand all costs and expenses related to such defense regarding any indemnification right provided for in this paragraph. The Kansas Lottery shall cooperate in any such defense and will promptly provide notice to Manager of any potential liability arising under this Paragraph 54. Manager's obligations under this paragraph may be satisfied in whole, or in part, by insurance purchased at Manager's expense, provided that Manager will be responsible for any indemnified liabilities in excess of insurance limits. Notwithstanding any provision to the contrary in this Agreement, Manager shall in no event be liable under any indemnification obligation provided in this Agreement to the extent such liability arises out of or is related to the negligence of or willful or malicious misconduct of any Indemnified Party or resulting from actions taken by Manager at the specific direction of the Executive Director. The provisions of this paragraph in no way eliminate or cancel the insurance protection and rights granted to the Kansas Lottery, the Commission, the State of Kansas and their agents and employees as set forth in Paragraphs 34 and 35 of this Agreement.

**55. Compliance with Orders, Ordinances, Etc.** Throughout this Agreement's term, Manager will promptly comply in all material respects with all statutes, codes, laws, acts, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits, licenses/certifications, authorizations, directions and requirements of all federal, state, county, municipal and other

governments, departments, commissions, boards, companies or associations insuring the premises, courts, authorities, officials and officers, foreseen or unforeseen, ordinary or extraordinary, which now or at any time hereafter may be applicable to the Lottery Gaming Facility or any part thereof, or to any use, manner of use or condition of the Lottery Gaming Facility or any part thereof. Notwithstanding these requirements, Manager may in good faith contest the validity of the applicability of any requirement of the nature referred to in this paragraph. In such event, Manager may fail to comply with the requirement or requirements so contested during the period of such contest and any appeal therefrom, so long as such non-compliance is permitted by law. Manager will give notice to the Executive Director of any such non-compliance.

56. **Discharge of Liens and Encumbrances.** Manager shall not permit or create or suffer to be permitted or created any lien upon the Lottery Gaming Facility Revenues or the Lottery Gaming Facility, or any part thereof, by reason of any labor, services or materials rendered or supplied or claimed to be rendered or supplied with respect to the Lottery Gaming Facility or any part thereof, except any liens expressly approved in writing by the Executive Director. Notwithstanding these requirements, Manager may in good faith contest any such lien. In such event, Manager, upon prior written notice to the Executive Director, may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal, unless the Executive Director requires Manager to promptly secure payment of all such unpaid items by filing the requisite bond, in form and substance satisfactory to the Executive Director, thereby causing a lien to be removed. Manager agrees this Agreement is not to be considered property, and will not permit this Agreement to be attached, garnished, or executed upon by any creditor for any reason, but such attachment, garnishment or execution shall not be grounds for default if Manager promptly contests and obtains vacation of such writs or secures a bond that causes the lien thereof to be removed. This Agreement is not transferable in bankruptcy without the Executive Director's approval, provided that the Manager's trustee, if Manager is insolvent or bankrupt, may continue to operate the Lottery Gaming Facility pursuant to this Agreement under order of the appropriate court for no longer than one year after the bankruptcy or insolvency of Manager.

57. **Assignment.** This Agreement may not be assigned in whole or in part without the Executive Director's express written consent, which may be granted or withheld in his sole and absolute discretion, except that this Agreement may be assigned in whole or in part to any Lender as provided in paragraph 78 hereto subject to Lender's compliance with all statutory requirements, regulatory procedures, (including those related to suitability), and Executive Director approval.

58. **Notices.** All notices and other communications provided for under this Agreement, or any applicable statute or regulation, must be in writing and sent via (a) U.S. Mail, certified mail, return receipt requested, (b) recognized national overnight courier (e.g. FedEx, UPS, DHL, etc.), (c) hand delivery or (d) fax, if followed by notice under (a) or (b) at the addresses set forth below, or at such other address as such party may specify by written notice to the other parties hereto:

If to the Executive Director:

Ed Van Petten  
Kansas Lottery  
128 N. Kansas Avenue  
Topeka, KS 66603-3638  
Telephone: 785-296-5703  
Facsimile: 785-296-5722

If to Manager:

John Elliott, CEO  
Global Gaming Solutions LLC  
210 North Broadway  
Ada, Oklahoma, 74820  
Office 580-272-5110  
Cell 580-272-4710,  
[John.elliott@ggsol.net](mailto:John.elliott@ggsol.net)

With a copy to

Michael Chang, Vice President  
Global Gaming Solutions LLC  
210 North Broadway  
Ada, Oklahoma, 74820  
Office 580-559-0804  
Cell 580-399-7672  
[Michael.Chang@ggsol.net](mailto:Michael.Chang@ggsol.net)

Notice will be deemed given three days after mailing, if by certified mail, return receipt requested, the next business day after delivery to an overnight delivery service for next business day delivery, or on the date sent by fax if confirmation of receipt is obtained and retained and provided that notice under (a) or (b) above is sent the same day.

59. **Amendments.** Except as otherwise provided in this paragraph, no amendment, waiver, or consent as to any provision in this Agreement will be effective unless it is in writing and agreed to by the Executive Director and Manager, and each such waiver or consent will be effective only in the specific instance and for the specific purpose for which given. In addition, and notwithstanding any other provision in this Agreement, Manager acknowledges and agrees the Executive Director may overrule any action by Manager affecting operations within the Lottery Gaming Facility without prior notice to Manager, and that the Kansas Lottery maintains at all times full control over all decisions concerning the Lottery Facility Games placed at the Lottery Gaming Facility. This Agreement will also be modified, in whole or in part, in order to comply with future statutory enactments or judicial interpretations of applicable law by a court of competent jurisdiction. This Agreement is subject to modification, in whole or in part, or cancellation, as deemed necessary by the Executive Director to comply with any future statutory enactments, subsequent regulatory changes, or judicial interpretations of applicable law by a court of competent jurisdiction occurring after this Agreement's execution, without additional consideration being exchanged between the parties. The parties agree nothing in this paragraph will be read to limit the remedies provided to Manager in Paragraphs 31 or 65.

60. **No Recourse; Special Obligation.**

- (a) The Kansas Lottery's obligations and agreements contained herein and any other instrument or document executed in connection with this Agreement, and any other instrument or document supplemental thereto or hereto, are deemed the obligations and agreements of the Kansas Lottery, and not of any member, officer, contractor (other than Manager), or employee of the Commission or Kansas Lottery in his or her individual capacity, and such individuals will not be liable personally hereon or thereon or be

subject to any personal liability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby.

- (b) The Manager's obligations and agreements contained herein and any other instrument or document executed in connection with this Agreement and any other instrument or document supplemental thereto or hereto, are deemed the obligations and agreements of Manager, and not of any direct or indirect equity owner, member, partner, officer, director, contractor, or employee of Manager in his or its individual capacity, and such entities and individuals will not be liable personally hereon or thereon or be subject to any personal liability based upon or in respect hereof or thereof or of any transaction contemplated hereby or thereby, with the exception of agreements, documents or instruments that are signed by any person or entity in his or its individual capacity, such as an individual disclosure form.

61. **Severability.** If any provision in this Agreement is determined to be invalid or unenforceable by any court with competent jurisdiction, such holding will not invalidate or render unenforceable any other provision, and the parties may renegotiate this Agreement to conform to any such court holding.

62. **Binding Effect.** This Agreement will inure to the benefit of, and will be binding upon, the State of Kansas, the Kansas Lottery, Manager, and their respective successors and assigns.

63. **Force Majeure.** With respect to any obligation to be performed by a party during this Agreement's term, no party will be liable for failure to perform when prevented by any force majeure cause beyond the reasonable control of such party such as an act of God, strike, lockout, breakdown, accident, order or regulation of or by any governmental authority, delay in obtaining any approval required by any governmental authority (and such delay is not caused by Manager), failure of supply or inability, by the exercise of reasonable diligence, to obtain supplies, parts or employees necessary to perform such obligation, or war or other emergency. The time within which such obligation must be performed will be extended for a period of time equivalent to the delay from such cause. But failure to perform by Manager's subcontractors or agents will not be considered a force majeure unless such subcontractor or supplier is prevented from timely performance by a force majeure as described above. This paragraph will not apply to any financial difficulties of Manager, or any parent, subsidiary, or affiliated or associated company of Manager, but will apply to orders of the Kansas Racing and Gaming Commission or court orders preventing Manager's ability to perform. The provisions of this paragraph 63 notwithstanding, the parties agree the litigation components of the force majeure definition do not apply to Manager's obligations to pay the privilege fee as required by Paragraph 20 above or to Manager's obligations to pay the expenses of the Kansas Lottery or the Kansas Racing and Gaming Commission as required by Paragraph 28, except, in each case, if such litigation components restrict, prohibit or disallow Manager from making such payments (or any portion thereof), in which case Manager shall be permitted to comply with such litigation components and such compliance shall not be, nor shall it be deemed to be, an event of default hereunder.

64. **Emergency Closings.** If at any time during this Agreement's term it becomes necessary in the Executive Director's or Manager's reasonable opinion to cease operations at the Lottery Gaming Facility in order to protect the facility or the health, safety and welfare of guests or employees for reasons of force majeure such as, but not limited to, acts of war, insurrection, civil

strife and commotion, labor unrest, environmental risks or other casualty, then the Lottery Gaming Facility may be closed and cease operation of all or part of the facility. If this occurs based on Manager's determination, Manager must immediately notify the Executive Director, who will then determine when the Lottery Gaming Facility is reopened without jeopardy to the facility, its guests or employees.

65. **Manager's Right to Cease Management Activities.** Manager may cease management of the Lottery Gaming Facility and terminate this Agreement with no less than six months advance written notice if:

- a) K.S.A. 2008 Supp. 74-8734(h)(1) or other applicable statute or regulation is amended to reduce the term of this Agreement;
- b) Either K.S.A. 2008 Supp. 74-8734(h)(12) or (13) or other applicable statute or regulation are amended to increase the minimum percentages stated in K.S.A. 2008 Supp. 74-8734(h)(12) or (13) above the amounts provided for in this Agreement;
- c) K.S.A. 2008 Supp. 74-8734 (h)(16) or other applicable statute or regulation is amended to increase above the aggregate the minimum percentages stated in K.S.A. 2008 Supp. 74-8734(h)(16) above the amounts provided for in this Agreement;
- d) The Kansas Lottery fails to effect payment of Manager's compensation as due under this Agreement and not otherwise in dispute, provided such failure of payment is not cured within ten (10) business days of notice by Manager to the Executive Director;
- e) K.S.A. 2008 Supp. 74-8739 is amended to no longer permit the sale or service of alcoholic beverages at the Lottery Gaming Facility or Ancillary Lottery Gaming Facility Operations;
- f) The Kansas Expanded Lottery Act is amended to preclude the Kansas Lottery from owning and operating table games at the Lottery Gaming Facility;
- g) A court of competent jurisdiction, after all appropriate appeals are exhausted, invalidates paragraph 30 above or the corresponding provisions of the Kansas Expanded Lottery Act;
- h) The Lottery Gaming Facility operates at a financial loss to Manager at the net income level (as defined by GAAP and verified by an independent audit by an auditor approved by the Executive Director) during a full Fiscal Year and Manager gives the Executive Director at least 180-days' advance written notice of Manager's intent to cease management activities within forty-five (45) days after the end of the Fiscal Year in which the financial loss occurs; or
- i) The Executive Director exercises his right under Paragraph 33 or the Kansas Expanded Lottery Act to physically secure, deactivate or cease operation of such a substantial number of Lottery Facility Games that the Lottery Gaming Facility is no longer commercially viable.

The parties agree that in addition to, or in lieu of, Manager's right to cease management activities under this paragraph, Manager will have available to it any legal or equitable remedy against the State of Kansas, including any impairment of the obligations of this contract prohibited by Article I, Section 10, Clause 1 of the Constitution of the United States of America, if any of the circumstances stated above in sub-paragraphs (a), (b), (c), (d), (e) or (f) occur. Nothing in this paragraph will be deemed a waiver of the immunities and protections reserved to the State of Kansas under the Eleventh Amendment to the Constitution of the United States.

**66. Manager's Ability to Withdraw Application.** Manager may withdraw its application to be a Lottery Gaming Facility Manager at any time prior to its approval by the Kansas Racing and Gaming Commission. Notice of Manager's withdrawal must be given in writing to the Executive Director. If at the time of Manager's withdrawal, Manager has paid a privilege fee to the state treasurer and credited to the Lottery Gaming Facility Manager Fund, the Executive Director will promptly notify the state treasurer of Manager's withdrawal and direct the state treasurer to refund Manager's privilege payment without interest. Manager acknowledges and agrees that if it withdraws its application pursuant to this paragraph, this Agreement will be void (with the exceptions of Sections 8, 28, (except that with respect to Section 28, Manager shall only be liable for any obligations which accrued prior to the date of its withdrawal), 54, 58, 60, 70, 71 and 72) and it will not be permitted to re-apply as a Lottery Gaming Facility Manager in the South Central Gaming Zone unless the application process is reopened. Manager will not be permitted any refund for payments made by Manager to reimburse the Kansas Lottery or the Kansas Racing and Gaming Commission's expenses as required by this Agreement.

**67. Financing Commitment for Construction and Additional Commitments and Incentives (if any).**

In accordance with K.S.A. 2008 Supp. 74-8734(h)(9), Manager attaches as Exhibit E its financing commitment for construction of the Lottery Gaming Facility and ancillary facilities.

**68. Executive Director's Approval.** When it is provided in this Agreement that the Manager will submit a budget, plan or other issue for the Executive Director's approval, the Executive Director will respond within 30 days, provided that any request from Manager in which the Executive Director fails to respond in that time will be deemed denied. The Executive Director will not exercise his discretionary authority provided to him in this Agreement in an unreasonable, arbitrary or capricious manner.

**69. Central Computer System.** Manager acknowledges and agrees that all Electronic Gaming Machines at the Lottery Gaming Facility will be directly linked to a central computer at a location determined by the Executive Director for purposes of security, monitoring, auditing, and providing other available program information to the Kansas Lottery. The Executive Director will have sole authority to determine the functions and operational capacities to be performed through this central computer system by Manager, as well as the services provided by the vendor engaged by the Executive Director to provide the central computer system. In addition to all other functions to be performed by the central computer system, the Executive Director expressly reserves the authority to determine if this central computer system will be used to validate or redeem tickets issued by an Electronic Gaming Machine commonly referred to as "Ticket-in Ticket Out."



70. **Counterparts.** This Agreement may be executed in counterparts, each of which will be an original and all of which will constitute one and the same instrument.

71. **Applicable Law.** This Agreement will be governed, construed, and enforced in accordance with Kansas law for contracts to be wholly performed within the state.

72. **Jurisdiction and Venue.** Any action by or between the parties challenging the constitutionality of, or arising out of, any provision of the Kansas Expanded Lottery Act, this Agreement, or any rule or regulation promulgated pursuant to the Kansas Expanded Lottery Act must be brought in the district court of Shawnee County, Kansas, unless a dispute is first subject to proceedings under the Kansas Administrative Procedure Act.

73. **Headings Not Controlling; Construction; Survival.** Each paragraph heading is prepared for convenience only and is not to control, affect the meaning, or be taken as an interpretation for any provision in this Agreement. Use of the word "including" in this Agreement does not mean including in a restrictive sense, but rather means in the sense of providing a non-exclusive illustration, as if the words "including without limitation" were included in the text. The terms and provisions of Paragraphs 31, 48, 52, 54, 58, 65, 71, 72, 74 and 78 shall survive the termination of this Agreement.

74. **No Joint Venture Created.** Manager and the Kansas Lottery agree and acknowledge that by entering into this Agreement they are not entering into a joint venture.

75. **Covenant for Continued Disclosure.** Within 30 days after the close of the Fiscal Year, Manager must update all exhibits to this Agreement as designated by the Executive Director. Upon the Executive Director's written request, Manager will provide such other information regarding the financial or legal undertakings of Manager, the Lottery Gaming Facility, or the Ancillary Lottery Gaming Facility Operations.

76. **No Endorsement Made.** By executing this Agreement the Kansas Lottery, the Kansas Racing and Gaming Commission, and the State of Kansas have not considered or endorsed the marketability of Manager's securities or marketability of any securities of Manager's affiliates.

77. **Contractual Attachment.** It is further agreed that the provisions found in the Contractual Provisions Attachment (Form DA-146a), and is attached as Exhibit F, are incorporated in this Agreement as though set out in full.

78. **Lender Protection.** The Kansas Lottery expressly recognizes the need for Manager to obtain favorable financing terms and the need for any third party lender (Lender) associated with the development of the Lottery Gaming Enterprise to protect its investment. Therefore, in connection with any financing from a Lender during the term of this Agreement or in connection with the construction of the Lottery Gaming Enterprise, the following provisions will apply:

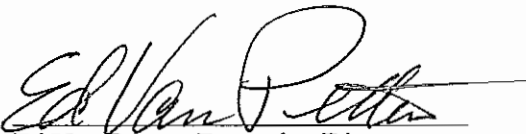
- a. The Kansas Lottery acknowledges that Manager may grant a security interest in, and/or grant a mortgage encumbering, the Lottery Gaming Enterprise, Lottery Facility Games, and any bank accounts of Manager referenced in Paragraph 48 but excluding any Collection Accounts

- b. Upon a bankruptcy of Manager, or if the Kansas Lottery elects to terminate this Agreement for any other reason, it shall notify Lender, and Lender may request that the Kansas Lottery promptly enter into a new management agreement on substantially the same terms as this Agreement (New Management Agreement) with a new, Third Party Manager. Kansas Lottery need not consider such a request, however, unless a Lender has first: (i) cured all reasonably curable defaults to the extent required hereunder; (ii) reimbursed Kansas Lottery's costs and expenses (including reasonable attorneys' fees and expenses) to terminate this Agreement, recover the Lottery Gaming Facility, and enter into the New Management Agreement; and (iii) ensured that any new Third Party Manager and/or the New Management Agreement are in compliance with any and all statutory requirements, approvals or consents, and any regulatory procedures, including those related to suitability. The Kansas Lottery agrees to co-operate with a Lender in good faith to find a new acceptable Third Party Manager upon any such termination of Manager.
- c. The Kansas Lottery agrees to notify Lender of any material amendments made under Section 59 of this Agreement.
- d. Manager agrees to notify the Lottery of any Lender's contact information and keep it current with the Lottery at all times. Manager's failure to keep a Lender's contact information current will nullify the Kansas Lottery's duty of notice under (a), (b) or (c) of this Section.
- e. The rights of Lender hereunder shall inure to the benefit of a Lender's affiliate, assignee, designee, nominee, subsidiary, or others designated by Lender.
- f. The Kansas Lottery agrees to provide any standard business consents, estoppels or similar instruments reasonably requested by Manager or Lender in connection with any such financing of the Lottery Gaming Enterprise or Lottery Facility Games.

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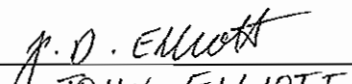
IN WITNESS WHEREOF, the Executive Director, on behalf of the Kansas Lottery, and Manager have caused this Agreement to be executed in their respective names, all as of the date first above written.

THE KANSAS LOTTERY

By:   
Ed Van Petten, Executive Director

Dated: 10-19-10

GLOBAL GAMING KS, LLC,  
a Kansas limited liability company

By:   
Name: JOHN ELLIOTT  
Title: CEO

Dated: 9-9-10

## **EXHIBIT SCHEDULE**

EXHIBIT A – Environmental Compliance and Indemnification Agreement

EXHIBIT B – Local Endorsement

EXHIBIT C –Expected Construction Sequence

EXHIBIT D –Key Employees

EXHIBIT E– Financing Commitment Description

EXHIBIT F – DA-146a

**EXHIBIT A**

**Environmental Compliance and  
Indemnification Agreement**

EXHIBIT "A"

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**ENVIRONMENTAL COMPLIANCE  
AND INDEMNIFICATION AGREEMENT**

THIS ENVIRONMENTAL COMPLIANCE AND INDEMNIFICATION AGREEMENT (the "Environmental Compliance Agreement"), dated as of \_\_\_\_\_, 2010, is given by **Global Gaming KS, LLC** ("Manager"), a Kansas limited liability company having offices at 210 North Broadway, Ada, Oklahoma, 74820, and the persons, firms or corporations, if any, identified as Indemnitors at the end of this Environmental Compliance Agreement (collectively "Indemnitors"), to the **Kansas Lottery**, an agency of the State of Kansas having its principal office at 128 N. Kansas Avenue, Topeka, KS 66603-3638.

**RECITALS**

**WHEREAS**, the Manager is the owner of, or is acquiring title to or other interest in, certain real property located in Sumner County, State of Kansas and described more fully in Schedule "A" attached and made a part hereof (the "Premises"); and

**WHEREAS**, the Manager is contracting with the Kansas Lottery to be a Lottery Gaming Facility Manager, as that term is defined in the Kansas Expanded Lottery Act, K.S.A. 2007 Supp. 74-8733 through 74-8773, which will consist of a Lottery Gaming Facility and certain Ancillary Lottery Gaming Facility Operations, as referenced in a Lottery Gaming Facility Management Contract of even date, to which this Environmental Compliance Agreement is attached (collectively referred to as the "Project"); and

**WHEREAS**, the Lottery Gaming Facility Management Contract contemplates that Manager will construct and maintain the Project in which a certain portion will be used to house a Lottery Gaming Facility, the business of which will be owned and operated by the Kansas Lottery ; and

**WHEREAS**, the Kansas Lottery is unwilling to consummate the Lottery Gaming Facility Management Contract unless the Manager and the Indemnitors execute and deliver this Environmental Compliance Agreement to the Kansas Lottery.

**NOW, THEREFORE**, in consideration of the foregoing and to induce the Kansas Lottery to consummate the Lottery Gaming Facility Management Contract, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Manager and the Indemnitors covenant and agree with the Kansas Lottery as follows:

1. **DEFINITIONS.** All capitalized terms used in this Environmental Compliance Agreement and not defined will have the meanings set forth below.

(a) **Environment** means any water, groundwater, water vapor, land (including land surface or subsurface), soil vapor, air, fish, wildlife, biota, and all other natural resources.

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(b) Environmental Laws mean all federal, state and local environmental, land use, zoning, health, chemical use, safety and sanitation laws, statutes, ordinances and codes relating to the protection of the Environment and/or governing the use, storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances (as defined below) and the rules, regulations, policies, guidelines, interpretations, decisions, orders and directives of federal, state and local governmental agencies and authorities with respect thereto.

(c) Environmental Permits mean all permits, licenses, approvals, authorizations, consents or registrations required by any applicable Environmental Law in connection with the ownership, use and/or operation of the Premises for the storage, treatment, generation, transportation, processing, handling, production or disposal of Hazardous Substances or the sale, transfer or conveyance of the Premises.

(d) Hazardous Substance means any substance (i) the presence of which requires investigation or remediation under any Environmental Law; or (ii) which is or becomes defined as a "hazardous waste", "hazardous substance", "toxic substance", "solid waste", pollutant and/or or contaminant under the Comprehensive Environmental Response, Compensation and Liability Act, as amended (42 U.S.C. section 9601 *et seq.*), the Resource Conservation and Recovery Act (42 U.S.C. section 6901 *et seq.*), as amended, the Hazardous Materials Transportation Act, as amended (49 U.S.C. Section 1801 *et seq.*), the Clean Air Act (42 U.S.C. Sections 7401, *et seq.*), the Toxic Substances Control Act, as amended (15 U.S.C. Section 2601, *et seq.*), the Clean Water Act, as amended (33 U.S.C. Sections 1251 *et seq.*), the Occupational Safety and Health Act, as amended (29 U.S.C.A. Section 651 *et seq.*), and/or any other applicable Environmental Law or any regulations promulgated under any of the foregoing; or (iii) which is toxic (including, but not limited to, toxic mold), explosive, corrosive, flammable, infectious, radioactive, carcinogenic, mutagenic, or otherwise hazardous and is or becomes regulated by any governmental authority, agency, department, commission, board, agency or instrumentality of the United States, the State of Kansas or any political subdivision thereof; or (iv) the presence of which on the Premises causes or threatens to cause a nuisance upon the Property or to adjacent properties or poses or threatens to pose a hazard to the health or safety of persons on or about the Premises; or (v) which contains gasoline, diesel fuel or other petroleum hydrocarbons; or (vi) which contains polychlorinated biphenyls (PCBs), asbestos or urea formaldehyde foam insulation.

(e) Improvements mean any buildings, structures and other improvements (if any) presently or hereafter located on the Premises.

(f) Indemnitee means the Kansas Lottery, the Kansas Lottery Commission, and the State of Kansas, and their successors and assigns, and their respective officers, directors, employees, agents, representatives, contractors and subcontractors.

(g) Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the Environment

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(including the abandonment or discarding of barrels, containers, and other closed receptacles containing any Hazardous Substance).

2. REPRESENTATIONS AND WARRANTIES: The Manager represents and warrants to the Kansas Lottery that to the best of the Manager's knowledge, information and belief:

(a) Neither the Premises nor any property adjacent to or within the immediate vicinity of the Premises is being or has been used for the storage, treatment, generation, transportation, processing, handling, production, disposal or release of any Hazardous Substance or as a landfill or other solid waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products.

(b) Underground storage tanks are not and have not been located on the Premises, except as set forth in Schedule "B" hereto.

(c) The soil, subsoil, bedrock, soil vapor, surface water and groundwater of the Premises are free of any Hazardous Substances.

(d) There has been no Release nor is there the threat of a Release of any Hazardous Substance on, at or from the Premises, or any property adjacent to or within the immediate vicinity of the Premises which through soil, subsoil, soil vapor, bedrock, surface water or groundwater migration could come to be located on the Premises, and the Manager has not received any form of notice or inquiry from any federal, state or local governmental agency or authority, any operator, tenant, subtenant, licensee or occupant of the Premises or any property adjacent to or within the immediate vicinity of the Premises or any other person with regard to a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises.

(e) All Environmental Permits necessary for the acquisition, construction, equipping, use or operation of the Premises have been obtained and are in full force and effect.

(f) No event has occurred with respect to the Premises which, with the passage of time or the giving of notice, or both, would constitute a violation of any applicable Environmental Law or non-compliance with any Environmental Permit.

(g) There are no agreements, consent orders, decrees, judgments, notices of violations, demand letters, license or permit conditions or other orders or directives of any federal, state or local court, governmental agency or authority



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relating to the past, present or future ownership, use, operation, sale, transfer or conveyance of the Premises which require any change in the present condition of the Premises or any work, repairs, construction, containment, clean-up, investigations, studies, removal or other remedial action or capital expenditures with respect to the Premises.

(h) There are no actions, suits, claims or proceedings, pending or threatened, which could cause the incurrence of expenses or costs of any name or description or which seek money damages, injunctive relief, investigations, remedial action or any other remedy that arise out of, relate to or result from (i) a violation or alleged violation of any applicable Environmental Law or non-compliance or alleged non-compliance with any Environmental Permit, (ii) the presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises or (iii) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Premises or the ownership, use, operation, sale, transfer or conveyance thereof.

3. COVENANTS OF MANAGER: The Manager covenants and agrees with the Kansas Lottery as follows:

(a) The Manager shall keep, and shall cause all operators, tenants, subtenants, licensees, invitees and occupants of the Premises to keep, the Premises free of all Hazardous Substances and shall not cause or permit the Premises or any part thereof to be used for the storage, treatment, generation, transportation, processing, handling, production, disposal or release of any Hazardous Substances.

(b) The Manager shall comply with, and shall cause all operators, tenants, subtenants, licensees, invitees and occupants of the Premises to comply with, all applicable Environmental Laws, and shall obtain and comply with, and shall cause all operators, tenants, subtenants, licensees, invitees and occupants of the Premises to obtain and comply with, all Environmental Permits.

(c) The Manager shall not cause or permit any change to be made in the present or intended use of the Premises which would (i) involve the storage, treatment, generation, transportation, processing, handling, production, disposal or release of any Hazardous Substance or the use of the Premises as a landfill or other solid waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (ii) violate any applicable Environmental Law, (iii) constitute non-compliance with any Environmental Permit or (iv) increase the risk of a Release of any Hazardous Substance.

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(d) The Manager shall promptly provide the Kansas Lottery with a copy of all notifications which the Manager gives or receives with respect to any past or present Release or the threat of a Release of any Hazardous Substance on, at or from the Premises or any property adjacent to or within the immediate vicinity of the Premises.

(e) The Manager shall undertake and complete all investigations, studies, sampling and testing and all removal and other remedial actions necessary to contain, remove and clean up all Hazardous Substances that are determined to be present at the Premises in accordance with all applicable Environmental Laws and all Environmental Permits.

(f) The Manager shall at all times allow the Kansas Lottery and its officers, employees, agents, representatives, contractors and subcontractors reasonable access to the Premises for the purposes of ascertaining site conditions, including, but not limited to, subsurface conditions.

(g) If at any time the Manager obtains any evidence or information which suggests that potential environmental problems may exist at the Premises, the Kansas Lottery may require that a full or supplemental environmental investigation and environmental assessment report (including a Phase II environmental investigation) with respect to the Premises of a scope and level of detail satisfactory to the Kansas Lottery to be prepared by an environmental engineer or other qualified person acceptable to the Kansas Lottery, at the Manager's expense. Said investigation may include a physical inspection of the Premises, a visual inspection of any property adjacent to or within the immediate vicinity of the Premises, personnel interviews and a review of all Environmental Permits. If the Kansas Lottery requires, such inspection shall also include a records search and/or subsurface testing for the presence of Hazardous Substances in the soil, subsoil, soil vapor, bedrock, surface water and/or groundwater. If the investigations indicate the presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises, the Manager shall promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, and other remedial actions, using methods recommended by the engineer or other person who conducted the investigations and acceptable to the appropriate federal, state and local agencies or authorities.

(h) Attached hereto as Schedule "C" is a complete list of all Environmental Permits presently required for the ownership, use or operation of the Premises and the businesses located thereon. The Manager agrees to notify the Kansas Lottery of any additions, deletions, or modifications of any Environmental Permits and the list thereof. Upon written request of the Kansas

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Lottery, the Manager shall furnish true and complete copies of all Environmental Permits.

4. INDEMNIFICATION PROVISIONS: The Manager and the Indemnitors hereby jointly and severally covenant and agree, at their sole cost and expense, to indemnify, protect, defend, and save harmless each and every Indemnitee from and against any and all damages, losses, liabilities, obligations, penalties, claims, litigation, demands, defenses, judgments, suits, actions, proceedings, costs, disbursements and/or expenses (including, without limitation, attorneys' and experts' fees for attorneys and experts selected by the Indemnitee, expenses and disbursements) of any kind or nature whatsoever which may at any time be imposed upon, incurred by or asserted or awarded against any Indemnitee relating to, resulting from or arising out of (a) the use of the Premises for the storage, treatment, generation, transportation, processing, handling, production or disposal of any Hazardous Substance or as a landfill or other waste disposal site or for military, manufacturing or industrial purposes or for the storage of petroleum or petroleum based products, (b) the presence or claimed presence of any Hazardous Substance or a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises, or of any property adjacent to or within the immediate vicinity of the Premises, (c) the failure to promptly undertake and diligently pursue to completion all necessary, appropriate and legally authorized investigative, containment, removal, clean-up and other remedial actions with respect to a Release or the threat of a Release of any Hazardous Substance on, at or from the Premises, (d) human exposure to any Hazardous Substance, noises, vibrations or nuisances of whatever kind to the extent the same arise from the condition of the Premises or the ownership, use, operation, sale, transfer or conveyance thereof, (e) a violation of any applicable Environmental Law, (f) non-compliance with any Environmental Permit, (g) a material misrepresentation or inaccuracy in any representation or warranty or a material breach of or failure to perform any covenant made by the Manager in this Environmental Compliance Agreement, and (h) the designation by any state or governmental entity, the United States Environmental Protection Agency or any other governmental authority of an Indemnitee as a party responsible or potentially responsible for the remediation of any condition on the Premises (collectively, the "Indemnified Matters").

The liability of the Manager and the Indemnitors to the Kansas Lottery and each Indemnitee shall be perpetual and shall survive, and shall in no way be limited, abridged, impaired or otherwise affected, by (i) any amendment or modification of any of the Lottery Gaming Facility Management Contract, (ii) the invalidity or unenforceability of any of the terms or provisions of the Lottery Gaming Facility Management Contract, (iii) any applicable statute of limitations, (iv) any investigation or inquiry conducted by or on the behalf of the Kansas Lottery or any other Indemnitee or any information which the Kansas Lottery or any other Indemnitee may have or obtain with respect to the environmental or ecological condition of the Premises, (v) the sale, transfer or conveyance of all or part of the Premises, (vi) the dissolution or liquidation of the Manager, (vii) the death or legal incapacity of any Indemnitor, (xii) the release or discharge, in whole or in part, of the Manager or any Indemnitor in any bankruptcy, insolvency, reorganization, arrangement, readjustment, composition, liquidation or similar proceeding, (viii) any other circumstances which might otherwise constitute a legal or equitable release or

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discharge, in whole or in part, of the Manager under of any Indemnitor under this Environmental Compliance Agreement, (ix) the expiration or termination of the Lottery Gaming Facility Management Contract or (x) the reconveyance of title to the Premises by the Manager or any other person, whether in accordance with the terms of a lease, by foreclosure or deed in lieu of foreclosure, sale or otherwise.

The indemnification agreement contained herein is wholly independent of and in addition to any indemnification agreement given to the Kansas Lottery or any other Indemnatee, as part of the application of the Kansas Expanded Lottery Act or any other applicable statute or regulation.

5. GOVERNING LAW: This Environmental Compliance Agreement shall be governed by, construed in accordance with and enforceable under the laws of the State of Kansas.

6. COUNTERPARTS: This Environmental Compliance Agreement may be executed in one or more counterparts, each of which shall be deemed an original. Said counterparts shall constitute but one and the same instrument and shall be binding upon each of the undersigned as fully and completely as if all had signed the same instrument.

7. SUCCESSORS AND ASSIGNS: This Environmental Compliance Agreement shall be binding upon the Manager, its successors and assigns, all subsequent owners of the Premises, the Indemnitors and their respective successors, assigns, executors, administrators, legal representatives, distributees and fiduciaries and shall inure to the benefit of each Indemnatee.

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**IN WITNESS WHEREOF**, the Manager and the Indemnitors have caused this Environmental Compliance Agreement to be duly executed as of the day and year first above written.

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GLOBAL GAMING KS, LLC, a Kansas  
limited liability company

By: \_\_\_\_\_  
Name:  
Title:

THE KANSAS LOTTERY

By: \_\_\_\_\_  
Ed Van Petten, Executive Director

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2010, before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_ )  
County of \_\_\_\_\_ ) ss.:

On the \_\_\_\_ day of \_\_\_\_\_ in the year 2010 before me, the undersigned, personally appeared \_\_\_\_\_, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signatures on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
Notary Public

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SCHEDULE "A"  
(Premises)

The East  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of Section 7, Township 32, Range 1 East, located in Sumner County, Kansas, less right of way, consisting of 80 acres more or less.

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SCHEDULE "B"  
(Underground Storage Tanks)

None at this time. Tanks may be installed in connection with a travel plaza/fueling station. Any such tanks would be installed in compliance with applicable laws, ordinances or other legal requirements.

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SCHEDULE "C"  
(Environmental Permits)

To be provided.



## **EXHIBIT B**

### **Local Endorsement**

EXHIBIT "B"

Resolution No. 2010-30

A RESOLUTION OF ENDORSEMENT FOR THE OPERATION OF A LOTTERY GAMING FACILITY TO BE LOCATED NEAR EXIT 19 OF THE KANSAS TURNPIKE BY GLOBAL GAMING KS, LLC, A KANSAS LIMITED LIABILITY COMPANY IN SUMNER COUNTY, KANSAS:

WHEREAS, Senate Bill 66, the Kansas Expanded Lottery Act (the "Act"), was approved by the Kansas Legislature, signed by the Governor, and was published in the Kansas Register, Vol. 26, No. 16, Pg. 518 on April 19, 2007; and

WHEREAS, the Act provides for the development of one lottery gaming facility per Gaming Zone in the State, as defined in the Act; and

WHEREAS, Sedgwick County and Sumner County are the counties located in the South Central Kansas Gaming Zone; and

WHEREAS, the Act provides that each county in each gaming zone must submit to the qualified voters a resolution to permit the operation of a Lottery Gaming Facility within the County; and

WHEREAS, Sedgwick County called an election on August 7, 2007, presenting the question of whether to permit a Lottery Gaming Facility in Sedgwick County; and

WHEREAS, the qualified voters in Sedgwick County voted against the development and operation of Lottery Gaming Facility in Sedgwick County; and

WHEREAS, Sumner County called an election on December 20, 2005, presenting the following question on the ballot:

"Question: Do you support a destination resort casino in Sumner County, Kansas, in the event such is legally permitted by the state and is otherwise deemed in the best interest of the County by the Board of County Commissioners?"

WHEREAS, the question was approved with 4,842 votes in favor and 2,838 against; and

WHEREAS, the election was duly noticed, conducted, and the votes counted and canvassed in the manner provided under Kansas law; and

WHEREAS, the qualified voters voted in favor of the development and operation of Lottery Gaming Facility in Sumner County and the certified results were transmitted to the Lottery Commission; and

**WHEREAS**, the Lottery Commission waived the requirement that an election be held in Sumner County after the effective date of the Act as the previous election regarding destination casinos held on December 20, 2005, was determined to in substantial compliance with the election required under the Act; and

**WHEREAS**, the Act requires a Resolution of Endorsement from the County of any prospective Lottery Gaming Facility Manager submitting a Lottery Gaming Facility Management Contract to the Lottery Commission; and

**WHEREAS**, Sumner County solicited statements of qualifications for parties seeking a Resolution of Endorsement from the County as a Lottery Gaming Facility Manager; and

**WHEREAS**, the County called a public hearing ("Public Hearing") to receive information and testimony in support of prospective Lottery Gaming Facility Managers regarding their qualifications, proposed sites for the Lottery Gaming Facility, and specific development plans for the Lottery Gaming Facility and ancillary development; and

**WHEREAS**, the following parties presented statements of qualification at the Public Hearing: Peninsula Gaming Partners, LLC; Global Gaming KS, LLC; and Harrah's Sumner Investment Company, LLC; and

**WHEREAS**, after duly considering all information and testimony provided at the Public Hearing the County determined that Global Gaming KS, LLC, possessed the qualifications and financial resources to operate a Lottery Gaming Facility in Sumner County, Kansas, and

**WHEREAS**, Global Gaming KS, LLC, has options to purchase a parcel of land in close proximity to Exit 19 of the Kansas Turnpike and proposes this as the location for development and operation of a Lottery Gaming Facility; and

**WHEREAS**, Sumner County has determined this location is well suited to attract tourism and enhance the economic development prospects of the County and State; and

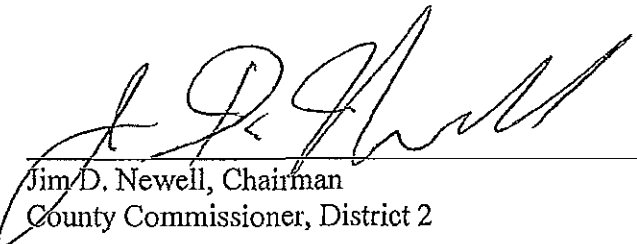
**WHEREAS**, to facilitate the location of the South Central Kansas Lottery Gaming Facility in Sumner County the County has determined it is in the best interest of the County based on the information and testimony provided at the Public Hearing and independent investigations of prospective Lottery Gaming Facility Managers to issue a Resolution of Endorsement at this time.

**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE BOARD OF COMMISSIONERS OF SUMNER COUNTY, KANSAS:**

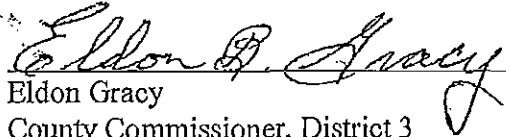
Global Gaming KS, LLC, is hereby provided the Endorsement of the County for the position of Lottery Gaming Facility Manager for a Sumner County Lottery Gaming Facility to be located near Exit 19 of the Kansas Turnpike.

The Endorsement of the County is subject to and conditioned upon the execution of a Predevelopment Agreement between the County and Global Gaming KS, LLC, in a form satisfactory to the County.

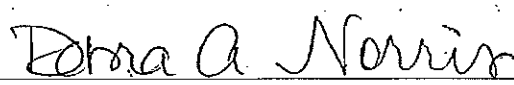
PASSED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMNER COUNTY,  
KANSAS, THIS 17<sup>th</sup> DAY OF AUGUST, 2010.

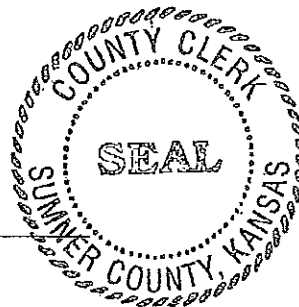
  
Jim D. Newell, Chairman  
County Commissioner, District 2

  
Garey E. Martin  
County Commissioner, District 1

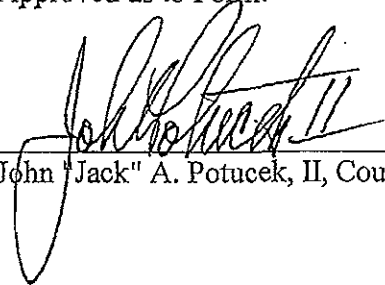
  
Eldon Gracy  
County Commissioner, District 3

Attest:

  
Donna A. Norris  
Sumner County Clerk



Approved as to Form:

  
John "Jack" A. Potucek, II, County Counselor

# **EXHIBIT C**

## **Expected Construction Sequence**

## EXHIBIT "C"

**PROPOSED MULTI-YEAR PHASING  
IN LOTTERY GAMING FACILITY AND AMENITIES**  
Global Gaming KS, LLC, for Sumner County Gaming Facility

**Phase 1 (Opening through first FIVE years)**

	Estimated completion time	Estimated Square Footage	Construction Phase
Buildings - Casino Construction			
Casino Phase 1	14 months		
1500 Slot Machine/40 Table Capacity gaming floor (Capacity) 20 table poker room		77,300	1A
1400 Seat Event Center, with 8,000 SF divisible meeting space		32,700	1A
Restaurants/Bars			1A
225 Seat Buffet/Restaurant, 140 Seat sports bar, 100 seat Food court - 4 venue stations, 90 Seat show Lounge with stage, 50 Seat Center Bar, (24 table top gaming machine Capacity)		27,200	1A
Additional Customer Amenities			
Players Club, Retail space, Bus Lobby, Public Entrances, Circulation, 3 Lane Porte Cochere and Valet Service		16,000	1A
Back of House, Administrative support including office space for Kansas Lottery and KRGC		47,500	1A
Phase 1 80 Key Hotel (at opening)	18 Months	59,200	1A
Renovations to city golf course and addition of club house	36 Months	3,500	1B
Travel plaza	36 Months	32,300	1B
Roads, Sewer, Water, Electric, Highway access and parking 3,000 SQ foot EMS/Fire Facility	14 months	3,000	1A
Phasing of Game placement			
1300 Slot Machines 30 Table Games, 20 Poker Tables	At Opening		1A
Add 250 slot machines, 10 Table Games	Year 3		1B
Add 250 units slot machines	Year 5	-	1B
Total machines, and games placed in Phase 1: 1800 Slot Machines, 40 Table Games, 20 Poker Tables		-	
	<b>Phase 1 Total:</b>	<b>298,700</b>	<b>298,700</b>

EXHIBIT "C"

**Phase 2 (Years SIX to TWELVE)**

	Estimated completion time	Estimated SQ FT	Construction Phase
Expansion of Casino Floor to accommodate additional 700 Slot machines, bringing total capacity to 2,200 machines, 40 table games, and 20 Poker tables	Year 7	30,000	2A
Addition of 200 slot machines, bringing facility total to 2,000 machines	Year 7		2A
Parking garage structure (966 Stalls) Parking expansion	Year 8		2A
4 star 120 Key Hotel	Year 10	90,000	2A
RV Park 90 Stalls	Year 10		2A
Race track for vintage automobiles ( <i>including purchase of estimated 320 acres of land necessary to accommodate the race track facility</i> )	Year 10		2A
Additional infrastructure to support Phase 2 construction	Year 10		2A
Additional infrastructure as approved in writing by the Lottery, including amenities, build-outs, and other facilities, reconfiguration of gaming floor with new technologies and gaming products to enhance the facility's status as a destination casino, and land contributed By parent company	Year 12	-	2B
	<b>Phase 2 Total:</b>	<b>120,000</b>	<b>418,700</b>

**Note: All Square Footages shown in this table are subject to design allowances.  
Items identified as Phase 2A are subject to the provisions of the management contract related to the opening of a tribal gaming facility.**

# EXHIBIT "C"

## PROPOSED MULTI-YEAR PHASING OF TOTAL INVESTMENT IN LOTTERY GAMING FACILITY AND AMENITIES

Global Gaming KS, LLC, for Sumner County Gaming Facility

<b>Phase 1 (Opening through first FIVE years)</b>		<b>Estimated \$ (millions)</b>	<b>Cumulative Investment</b>
Start Up Costs; Including legal fees, architectural fees, engineering fees, financing related costs, preopening expenses construction period carrying costs, working capital, employee salaries		16.00	
Buildings - Casino Construction		80.00	
FF&E		20.00	
Games (1,300 units at opening) Plus table games		25.00	
Land and related items such as infrastructure, sewer, water, electric system upgrades, highway access, turnpike access 3000 Sq FT EMS Facility		7.00	
Hotel (at opening)		10.00	
Renovations to city golf course and addition of club house		3.00	
Travel plaza		6.00	
Addition of games (250 units in Y3 and 250 units in Y5)		10.00	
Additional casino floor space to accommodate the addition of 500 games		4.00	
	<b>Phase 1 Total:</b>	<b>181.00</b>	<b>\$ 181.00</b>

<b>Phase 2 (Years SIX to Twelve)</b>		<b>Estimated \$ (millions)</b>	<b>Cumulative Investment</b>
Addition of games (planned 200 units in Y7)		5.00	
Additional casino floor space to accommodate addition of games in Year 7		8.00	
RV Park		7.00	
Race track for vintage automobiles including purchase of estimated 320 acres of land necessary to accommodate the race track facility		12.00	
Second hotel (subject to market demand)		15.00	
Parking garage structure		6.00	
Additional infrastructure to support Phase 2 construction		5.00	
Additional amenities, build-outs, and other facilities as approved in writing by the Lottery, including reconfiguration of gaming floor with new technologies and gaming products to enhance the facility's status as a destination casino, and land contributed by parent company		48.00	
	<b>Phase 2 Total:</b>	<b>106.00</b>	<b>\$ 287.00</b>

**TOTAL INVESTMENT,  
\$ millions over 12 years: \$ 287 million**

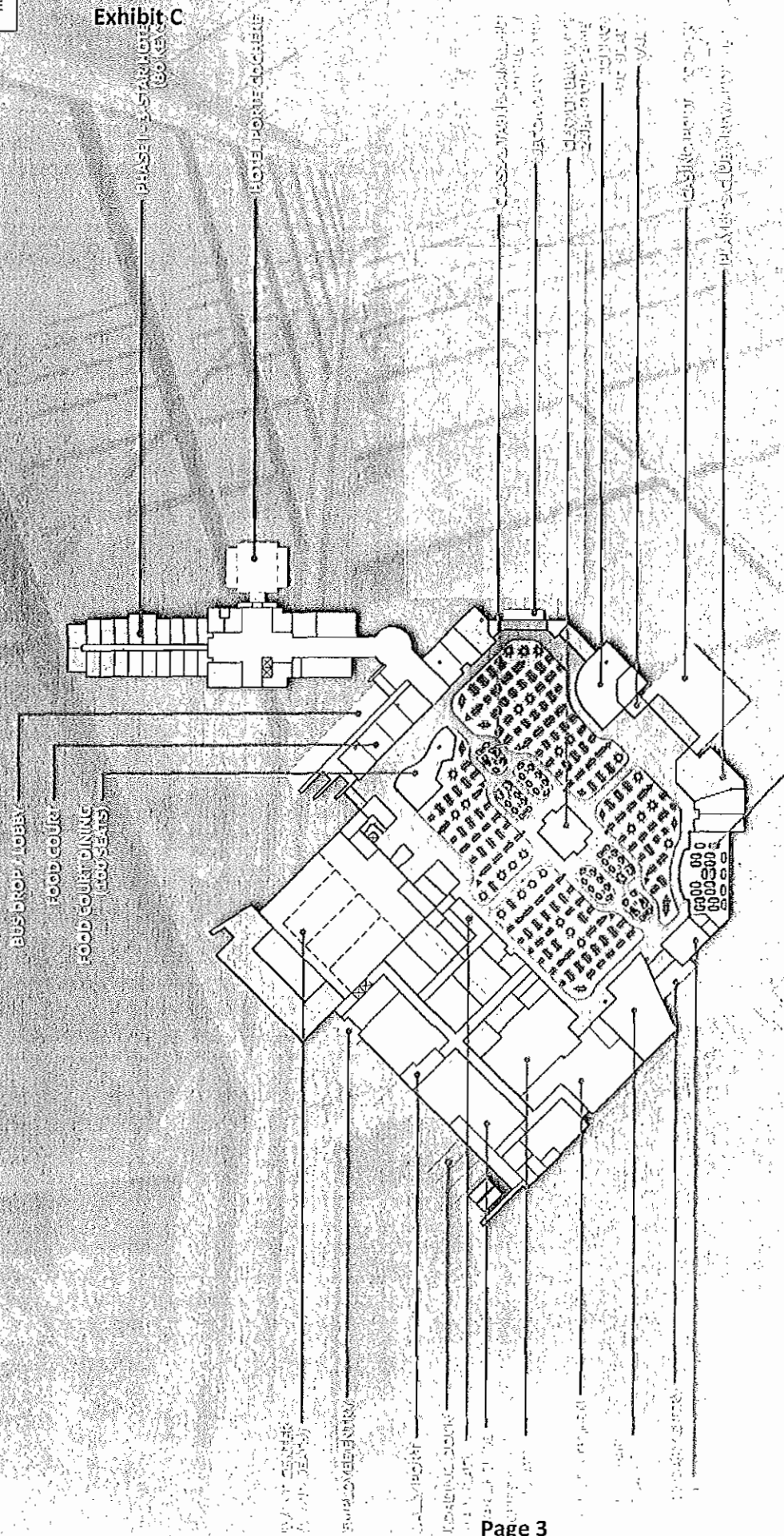
*Note: the \$25m Privilege Fee is in addition to this Total Investment amount.*

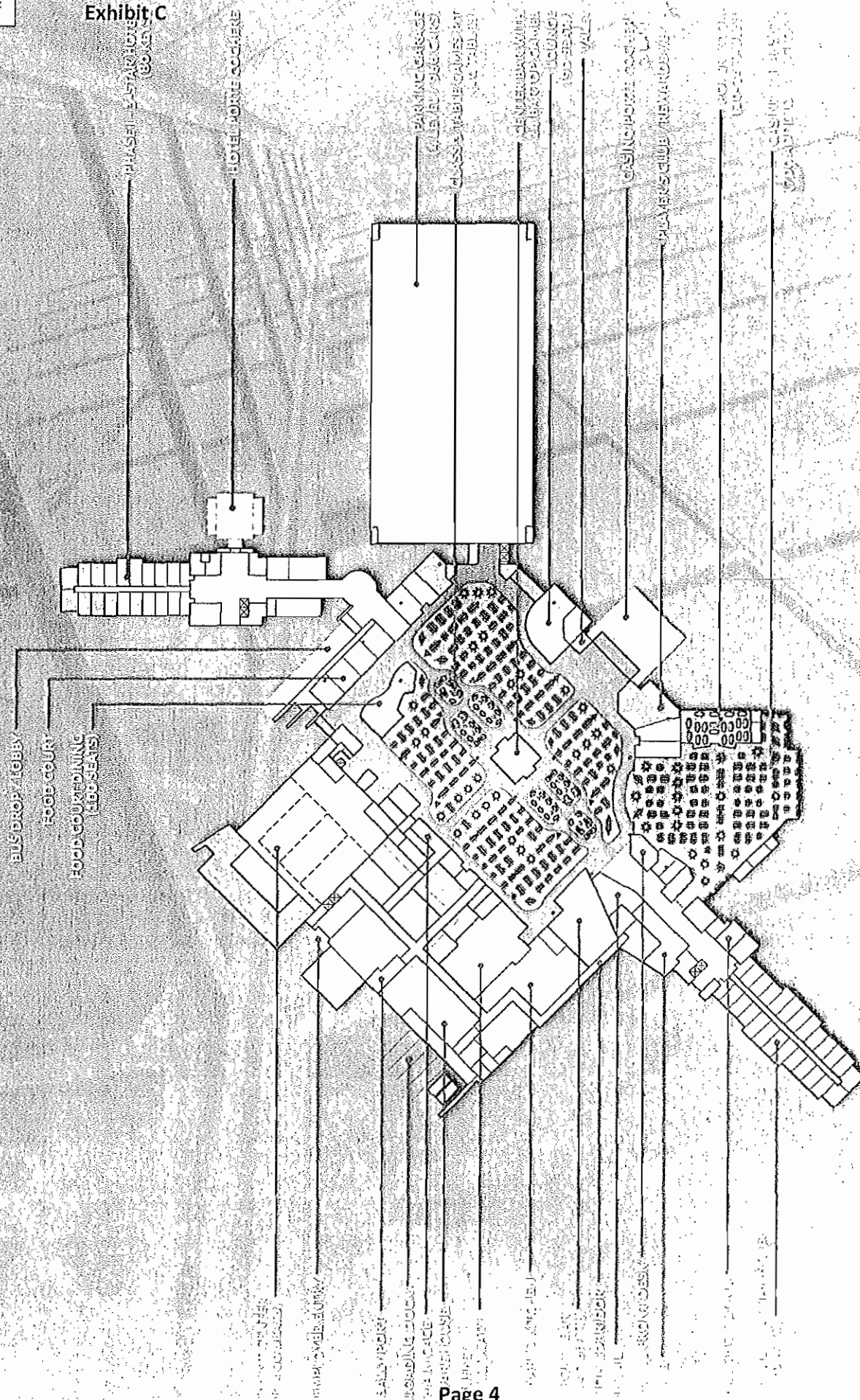




Exhibit C

FLOOR PLAN - PHASE I





## **EXHIBIT D**

### **Key Employees**

## Exhibit D

### **Key Employees of Lottery Gaming Facility Manager**

The following positions or their equivalents shall be considered Key Employees of the Lottery gaming Facility Manager Global Gaming KS, LLC:

- 1.) General Manager-Responsible for the operations of the Lottery Gaming Facility and related services
- 2.) Finance and Compliance Director-Plans, directs, supervises and coordinates the property's accounting, casino cashiering, credit, count room, purchasing and financial analysis functions in accordance with approved internal controls and procedures.
- 3.) Casino Director – Plans, directs, supervises and coordinates property gaming activities
- 4.) Marketing Director –responsible for long range and daily planning and operations of Marketing Department including public relations, advertising, and player development.
- 5.) Security and Surveillance Director-Oversees operations of the Security and Surveillance Department in accordance with approved internal controls and procedures. Supervises all security and surveillance staff.

## **EXHIBIT E**

### **Finance Commitment Description**

## Exhibit E

### **Financing Commitment Description**

Global Gaming Solutions, LLC, as Manager, confirms that it is highly confident based on both the internal resources of Manager and the determination of third party financial sources with a long history in the financing of similar gaming properties that together we will be able to finance through a combination of equity and debt to support the construction and operation of the facility contemplated in the Management Agreement and the Kansas Expanded Lottery Act. As we stated in the financial information presented the Manager has committed a substantial amount of equity to be contributed to the project. We have also engaged the services of a highly reputable third party experienced in providing financing to casino projects throughout the country. This third party has arranged for and provided over \$30 billion in financing for gaming projects of all sizes. Between the equity we will provide and the funds provided from the debt markets we will be able to complete the project as contemplated.

**EXHIBIT F**

**DA-146a Mandatory**

**Attachment**

## CONTRACTUAL PROVISIONS ATTACHMENT

**Important:** This form contains mandatory contract provisions and must be attached to or incorporated in all copies of any contractual agreement. If it is attached to the vendor/contractor's standard contract form, then that form must be altered to contain the following provision:

"The Provisions found in Contractual Provisions Attachment (Form DA-146a, Rev. 1-01), which is attached hereto, are hereby incorporated in this contract and made a part thereof."

The parties agree that the following provisions are hereby incorporated into the contract to which it is attached and made a part thereof, said contract being the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

1. **Terms Herein Controlling Provisions:** It is expressly agreed that the terms of each and every provision in this attachment shall prevail and control over the terms of any other conflicting provision in any other document relating to and a part of the contract in which this attachment is incorporated.
  2. **Agreement With Kansas Law:** All contractual agreements shall be subject to, governed by, and construed according to the laws of the State of Kansas.
  3. **Termination Due To Lack Of Funding Appropriation:** ~~If, in the judgment of the Director of Accounts and Reports, Department of Administration, sufficient funds are not appropriated to continue the function performed in this agreement and for the payment of the charges hereunder, State may terminate this agreement at the end of its current fiscal year. State agrees to give written notice of termination to contractor at least 30 days prior to the end of its current fiscal year, and shall give such notice for a greater period prior to the end of such fiscal year as may be provided in this contract, except that such notice shall not be required prior to 90 days before the end of such fiscal year. Contractor shall have the right, at the end of such fiscal year, to take possession of any equipment provided State under the contract. State will pay to the contractor all regular contractual payments incurred through the end of such fiscal year, plus contractual charges incidental to the return of any such equipment. Upon termination of the agreement by State, title to any such equipment shall revert to contractor at the end of State's current fiscal year. The termination of the contract pursuant to this paragraph shall not cause any penalty to be charged to the agency or the contractor.~~
  4. **Disclaimer Of Liability:** Neither the State of Kansas nor any agency thereof shall hold harmless or indemnify any contractor beyond that liability incurred under the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.).
  5. **Anti-Discrimination Clause:** The contractor agrees: (a) to comply with the Kansas Act Against Discrimination (K.S.A. 44-1001 et seq.) and the Kansas Age Discrimination in Employment Act (K.S.A. 44-1111 et seq.) and the applicable provisions of the Americans With Disabilities Act (42 U.S.C. 12101 et seq.) (ADA) and to not discriminate against any person because of race, religion, color, sex, disability, national origin or ancestry, or age in the admission or access to, or treatment or employment in, its programs or activities; (b) to include in all solicitations or advertisements for employees, the phrase "equal opportunity employer"; (c) to comply with the reporting requirements set out at K.S.A. 44-1031 and K.S.A. 44-1116; (d) to include those provisions in every subcontract or purchase order so that they are binding upon such subcontractor or vendor; (e) that a failure to comply with the reporting requirements of (c) above or if the contractor is found guilty of any violation of such acts by the Kansas Human Rights Commission, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration; (f) if it is determined that the contractor has violated applicable provisions of ADA, such violation shall constitute a breach of contract and the contract may be cancelled, terminated or suspended, in whole or in part, by the contracting state agency or the Kansas Department of Administration.
- Parties to this contract understand that the provisions of this paragraph number 5 (with the exception of those provisions relating to the ADA) are not applicable to a contractor who employs fewer than four employees during the term of such contract or whose contracts with the contracting state agency cumulatively total \$5,000 or less during the fiscal year of such agency.
6. **Acceptance Of Contract:** This contract shall not be considered accepted, approved or otherwise effective until the statutorily required approvals and certifications have been given.
  7. **Arbitration, Damages, Warranties:** ~~Notwithstanding any language to the contrary, Except as otherwise provided for in the Lottery Gaming Facility Management Contract, no interpretation shall be allowed to find the State or any agency thereof has agreed to binding arbitration, or the payment of damages or penalties upon the occurrence of a contingency. Further, the State of Kansas shall not agree to pay attorney fees and late payment charges beyond those available under the Kansas Prompt Payment Act (K.S.A. 75-6403), and no provision will be given effect which attempts to exclude, modify, disclaim or otherwise attempt to limit implied warranties of merchantability and fitness for a particular purpose.~~
  8. **Representative's Authority To Contract:** By signing this contract, the representative of the contractor thereby represents that such person is duly authorized by the contractor to execute this contract on behalf of the contractor and that the contractor agrees to be bound by the provisions thereof.
  9. **Responsibility For Taxes:** The State of Kansas shall not be responsible for, nor indemnify a contractor for, any federal, state or local taxes which may be imposed or levied upon the subject matter of this contract.
  10. **Insurance:** The State of Kansas shall not be required to purchase, any insurance against loss or damage to any personal property to which this contract relates, nor shall this contract require the State to establish a "self-insurance" fund to protect against any such loss or damage. Subject to the provisions of the Kansas Tort Claims Act (K.S.A. 75-6101 et seq.), the vendor or lessor shall bear the risk of any loss or damage to any personal property in which vendor or lessor holds title.
  11. **Information:** No provision of this contract shall be construed as limiting the Legislative Division of Post Audit from having access to information pursuant to K.S.A. 46-1101 et seq.
  12. **The Eleventh Amendment:** "The Eleventh Amendment is an inherent and incumbent protection with the State of Kansas and need not be reserved, but prudence requires the State to reiterate that nothing related to this contract shall be deemed a waiver of the Eleventh Amendment."



<b>TIMELINE OF PROJECT</b>	On or about June 2012			
<b>Proposed Casino Name:</b>		Proposed Casino Address or Location:		
	<b>DAYS</b>	<b>COMMENTS OR DESCRIPTIONS</b>		
<b>Estimated date of awarding of contract</b>	Day 1			
<b>Estimated date for approval of all building plans and variances</b>	Day 90			
<b>Estimated date for Ground-breaking</b>	Day 91			
<b>If project is to be phased, please describe the phases</b>	Please refer to Schedule C (next Tab) of proposal Lottery Gaming Facility Management Contract.			
<b>Completion date for Phase 1</b>	Day 548			
<b>Completion date for Phase 2</b>	To be completed w/in 144 months from Day 90			
<b>If project is going to involve a temporary gaming facility, please note estimated date of opening of the temporary and the permanent facility</b>	Global Gaming KS, LLC does not intent to build a temporary facility. The permanent facility will be completed and operational w/in 14 months.			
<b>Estimated Opening Date for temporary facility</b>	Not applicable. Please see above.			
<b>Estimated Opening Date for permanent facility</b>	On or about June 2012			

Exhibit C

**PROPOSED MULTI-YEAR PHASING  
IN LOTTERY GAMING FACILITY AND AMENITIES  
Global Gaming KS, LLC, for Sumner County Gaming Facility**

**Phase 1 (Opening through first FIVE years)**

	Estimated completion time	Estimated Square Footage	Construction Phase
Buildings - Casino Construction			
Casino Phase 1	14 months		
1500 Slot Machine/40 Table Capacity gaming floor (Capacity) 20 table poker room		77,300	1A
1400 Seat Event Center, with 8,000 SF divisible meeting space		32,700	1A
Restaurants/Bars			1A
225 Seat Buffet/Restaurant, 140 Seat sports bar, 100 seat Food court - 4 venue stations, 90 Seat show Lounge with stage, 50 Seat Center Bar, (24 table top gaming machine Capacity)		27,200	1A
Additional Customer Amenities			
Players Club, Retail space, Bus Lobby, Public Entrances, Circulation, 3 Lane Porte Cochere and Valet Service		16,000	1A
Back of House, Administrative support including office space for Kansas Lottery and KRGC		47,500	1A
Phase 1 80 Key Hotel (at opening)	18 Months	59,200	1A
Renovations to city golf course and addition of club house	36 Months	3,500	1B
Travel plaza	36 Months	32,300	1B
Roads, Sewer, Water, Electric, Highway access and parking 3,000 SQ foot EMS/Fire Facility	14 months	3,000	1A
Phasing of Game placement			
1300 Slot Machines 30 Table Games, 20 Poker Tables	At Opening		1A
Add 250 slot machines, 10 Table Games	Year 3		1B
Add 250 units slot machines	Year 5	-	1B
Total machines, and games placed in Phase 1: 1800 Slot Machines, 40 Table Games, 20 Poker Tables		-	
	<b>Phase 1 Total:</b>	<b>298,700</b>	<b>298,700</b>

**Phase 2 (Years SIX to TWELVE)**

	Estimated completion time	Estimated SQ FT	Construction Phase
Expansion of Casino Floor to accommodate additional 700 Slot machines, bringing total capacity to 2,200 machines, 40 table games, and 20 Poker tables	Year 7	30,000	2A
Addition of 200 slot machines, bringing facility total to 2,000 machines	Year 7		2A
Parking garage structure (966 Stalls) Parking expansion	Year 8		2A
4 star 120 Key Hotel	Year 10	90,000	2A
RV Park 90 Stalls	Year 10		2A
Race track for vintage automobiles ( <i>including purchase of estimated 320 acres of land necessary to accommodate the race track facility</i> )	Year 10		2A
Additional infrastructure to support Phase 2 construction	Year 10		2A
Additional infrastructure as approved in writing by the Lottery, including amenities, build-outs, and other facilities, reconfiguration of gaming floor with new technologies and gaming products to enhance the facility's status as a destination casino, and land contributed By parent company	Year 12	-	2B
	<b>Phase 2 Total:</b>	<b>120,000</b>	<b>418,700</b>

**Note: All Square Footages shown in this table are subject to design allowances.  
Items identified as Phase 2A are subject to the provisions of the management contract related to the opening of a tribal gaming facility.**

DESCRIPTION OF CASINO AND OTHER PHYSICAL FACILITIES		Quantity	Units of Measure	COMMENTS		
<b>CASINO</b>						
Square footage		72,979	#			
Number of slot machines		1,500	#	(We have submitted a schedule to increase to 2000 machines.)		
Number of table games		60	#			
Types of table games offered:						
	Blackjack	26	#			
	Craps	3	#			
	Roulette	2	#			
	Pai Gow Poker	9	#			
	Other tables (Poker)	20	#			
Other gaming offerings (specify):						
<b>HOTEL</b>						
Total square footage of public areas		10000	#			
Number of standard rooms		100	#			
Number of premium rooms		20	#			
Square footage of standard room		320	#			
Square footage of premium room (average)		620	#			
				<b>DESCRIPTION</b>		
Amenities in standard rooms (specify):				King or 2 Queen Beds, Study Desk, HDTV with TV Stand, Hospitality Station (Microwave, Mini Fridge, Coffee Maker), Closet (Iron / Iron Board), Bathroom (Hairdryer / Brand Amenities)		
Additional amenities in premium rooms (specify):				Jacuzzi, Sofa Bed, additional space (if applicable), wetbar (if applicable)		
Additional amenities in public areas (specify):				Business Center, Exercise Facility, Pool, Spa, Breakfast Area, Small Meeting Space, Guest Laundry, Public Restrooms, HDTVs		

<b>RESTAURANTS</b>						
Number of restaurants and eating outlets			#			
<b>Specify theme, avg daily covers, and avg spend per cover of each restaurant:</b>		<b>SQUARE FOOTAGE</b>	<b>SEATING CAPACITY</b>	<b>THEME</b>	<b>Covers</b>	<b>Avg Spend per cover</b>
THE BREWHOUSE		5000	140	SPORTS BAR	350	\$14.00
LIBERTY DELI		6643	135	FAST CASUAL BREAKFAST, LUNCH AND DINNER	300	\$10.00
BUFFET		5734	135	LIMITED BREAKFAST, LUNCH AND DINNER	500	\$15.00
BELLINI'S		4000	100	STEAK SEAFOOD PASTA	75	\$35.00
Restaurant #5		#	#			
Restaurant #6		#	#			
Restaurant #7		#	#			
<b>BARS AND LOUNGES</b>						
Number of bars and lounges			#			
<b>Specify theme &amp; size of each bar</b>		<b>SQUARE FOOTAGE</b>	<b>SEATING CAPACITY</b>	<b>THEME</b>		
" THE BANK" LOUNGE & BAR		3529	90	COCKTAILS AND ENTERTAINMENT		
" ROULETTES" CENTRE BAR		1698	50	COCKTAIL BAR		
Bar #3		#	#			
Bar #4		#	#			
Bar #5		#	#			
Bar #6		#	#			
Bar #7		#	#			
Are any of the food and beverage outlets going to be leased or franchised to an outside vendor? If yes, what will be the revenue sharing, or "commission" structure.		To be Determined				

<b>ENTERTAINMENT VENUES</b>						
Number of Entertainment Venues		1	#			
<b>Describe and note size of each venue</b>		<b>SQUARE FOOTAGE</b>	<b>SEATING CAPACITY</b>	<b>DESCRIPTION</b>		
Event/ Convention Center		32,649	1400 theater style seating	Multi-use space for maximum flexibility of various entertainment / performance and meeting / conference events. A flat ground floor with non fixed seats and movable partitions will be provided for flexibility. Movable partitions will be designed to accommodate varying rooms sizes and configurations. A theater style mezzanine with fixed seats will also be provided for additional seating at large entertainment performance events.		
Ticket Booth		262	0			
Pre-Function		1,657	0			
Stage		2,258	0			
Back of House		5,723	0			
<b>EVENT VENUES</b>						
Number of Event Venues		#	#			
<b>Describe and note size of each venue</b>		<b>SQUARE FOOTAGE</b>	<b>SEATING CAPACITY</b>	<b>DESCRIPTION</b>		
Venue #1		#	#			
Venue #2		#	#			
Venue #3		#	#			
Venue #4		#	#			
<b>CONVENTION FACILITIES</b>						
Number of Event Venues		1	See Event Center	See Event Center above		
Square footage of Convention Space			#	See Event Center		
Number of Conference / Mtg Rooms		up to 4	#	<b>Assume the maximum number of possible break-out rooms</b>		
<b>Capacity of Break-out rooms</b>		<b>School-room seating</b>	<b>Theater seating</b>			
Room #1		184 +/-	See Event	Seating capacity varies based on possible configurations of divisible room sizes		
Room #2		184 +/-	See Event			
Room #3		92 +/-	See Event			
Room #4		92 +/-	See Event			



VISITATION AND SPENDING PATTERNS DURING OPERATIONS' PHASE OF LOTTERY GAMING FACILITY									
Company's Name: Global Gaming KS, LLC									
Please submit 5-year projections, starting from the date of opening									
PROJECTED DATE OF OPENING:	Unit of Measure								
	On or about June 2012								
			2012	2013	2014	2015	2016		
RESIDENTS									
Resident population (within 100 miles)									
Number of adult residents	#	half year	840,000	840,000	840,000	840,000	840,000		
Residential gaming penetration rate *	%		26%	27%	29%	29%	32%	* Indicates only resident gaming customers	
Market penetration rate**	%		30%	31%	33%	33%	36%	** Includes all residents	
Visits per gaming resident per year	#		7	7	7	7	7		
Total resident gaming visits per year	#		791,700	1,613,850	1,766,100	1,766,100	1,948,800		
Resident non-gaming visits per year***	#		31,668	64,554	70,644	70,644	77,952	*** Resident non-gaming visitors	
Total Residential visits per year	#		823,368	1,678,404	1,836,744	1,836,744	2,026,752		
Residential gaming spend per visit	\$		67	67	67	67	67		
Residential gamer non-gaming spend per diem	\$		4	8	10	10	10		
Per diem gaming resident			71	75	77	77	77		
Per diem non-gaming resident			4.00	8	10	10	10		
Total Residential Gaming Spend per annum	\$	\$	53,043,900	108,127,950	118,328,700	118,328,700	130,569,600		
Total Residential Non-Gaming Spend per annum	\$	\$	3,293,472	13,427,232	18,367,440	18,367,440	20,267,520		



<b>Company's Name: Global Gaming KS, LLC</b>													
Please submit 5-year projections, starting from the date of opening													
<b>PROJECTED DATE OF OPENING:</b>	<b>Unit of Measure</b>												
	On or about June 2012												
			2012	2013	2014	2015	2016						
<b>TOURISTS (residence more than 100 miles away)</b>													
Tourist gaming visits per year*	#		305,000	305,000	330,000	330,000	375,000		* Indicates gaming customers				
Tourist non-gaming visits per year**	#		20,000	20,000	20,000	20,000	20,000		** Customers who do not game				
Total Tourist visits per year	#		325,000	325,000	350,000	350,000	395,000						
Tourist gaming spend per diem	\$		67	67	67	67	67						
Tourist gamer non-gaming spend per diem	\$		4	4	8	8	8						
Tourist non-gamer spend per diem	\$		4	4	8	8	8						
Total Tourist Gaming Spend per annum	\$		10,217,500	20,435,000	22,110,000	22,110,000	25,125,000						
Total Tourist Non-Gaming Spend per annum	\$		1,300,000	1,300,000	2,717,500	2,712,500	3,061,250						
<b>TOTAL VISITATION PER YEAR</b>	#		1,148,368	2,003,404	2,186,744	2,186,744	2,421,752						
<b>TOTAL GAMING SPEND PER YEAR</b>	\$		63,261,400	128,562,950	140,438,700	140,438,700	155,694,600						
<b>TOTAL NON-GAMING SPEND PER YEAR</b>	\$		4,593,472	14,727,232	21,084,940	21,079,940	23,328,770						

<b>Company's Name: Global Gaming KS, LLC</b>													
Please submit 5-year projections, starting from the date of opening													
	<b>Unit of Measure</b>												
<b>PROJECTED DATE OF OPENING:</b>	On or about June 2012												
			2012	2013	2014	2015	2016						
<b>Tourist Visitors</b>													
<b>Total number of tourists</b>													
<b>Leisure tourists</b>	#		81,250	162,500	175,000	175,000	197,500						
<b>Business/conference tourists</b>	#		81,250	162,500	175,000	175,000	197,500						
Leisure tourists - Please specify top five source markets			Oklahoma City, OK; Topeka, KS; Kansas City, MO; Tulsa, OK; Omaha, NE										
Other Kansas	#		24,375	48,750	52,500	52,500	59,250						
Oklahoma	#		32,500	65,000	70,000	70,000	79,000						
Nebraska	#		8,125	16,250	17,500	17,500	19,750						
Colorado	#		-	-	-	-	-						
Missouri	#		8,125	16,250	17,500	17,500	19,750						
Other	#		8,125	16,250	17,500	17,500	19,750						
			-	-	-	-	-						
Business/Conference Tourists - Please specify top five source markets			Oklahoma City, OK; Topeka, KS; Kansas City, MO; Tulsa, OK; Omaha, NE										
Other Kansas	#		24,375	48,750	52,500	52,500	59,250						
Oklahoma	#		32,500	65,000	70,000	70,000	79,000						
Nebraska	#		4,063	8,125	8,750	8,750	9,875						
Colorado	#												
Missouri	#		8,125	16,250	17,500	17,500	19,750						
Other	#		12,188	24,375	26,250	26,250	29,625						

<b>Company's Name: Global Gaming KS, LLC</b>												
<b>Please submit 5-year projections, starting from the date of opening</b>												
	<b>Unit of Measure</b>											
<b>PROJECTED DATE OF OPENING:</b>	On or about June 2012											
			2012	2013	2014	2015	2016					
<b>HOTEL GUESTS</b>												
Number of hotel rooms	#			100	100	100	100					
Occupancy rate	%			52%	64%	71%	71%					
Visitors per room	#			2.0	2.0	2.0	2.0					
Total hotel guests per year	#			18,980	35,040	38,873	38,873					
Average room rate	\$			89	94	97	97					
Percentage of hotel guests who are residents (within 100 miles)	%			40%	42%	48%	48%					
Percentage of hotel guests who are tourists	%			60%	58%	52%	52%					
Total hotel revenues per year	\$			1,689,220	2,195,840	2,513,755	2,513,755					
Total gaming spend by hotel guests per year	\$			1,271,660	2,347,680	2,604,491	2,604,491					
Total non-gaming non-hotel spend by hotel guests per year	\$			474,500	876,000	971,825	971,825					
<b>TOTAL SPEND BY HOTEL GUESTS PER YEAR</b>	<b>\$</b>			<b>1,746,160</b>	<b>3,223,680</b>	<b>3,576,316</b>	<b>3,576,316</b>					

<b>Company's Name: Global Gaming KS, LLC</b>												
Please submit 5-year projections, starting from the date of opening												
	<b>Unit of Measure</b>											
<b>PROJECTED DATE OF OPENING:</b>	On or about June 2012											
			2012	2013	2014	2015	2016					
<b>LEISURE HOTEL GUESTS</b>												
Visitors per room	#			2	2	2	2					
Total leisure guests per year	#			18,980	23,360	25,915	25,915					
Average room rate	\$			89	94	97	97					
Percentage of leisure guests who are residents	%			40%	42%	48%	48%					
Percentage of leisure guests who are tourists	%			60%	58%	52%	52%					
Total leisure hotel revenues per year	\$			844,610	1,168,000	1,295,750	1,295,750					
Total gaming spend by leisure guests per year	\$			635,830	1,565,120	1,736,305	1,736,305	Incremental to 5 year forecast				
Total other non-gaming leisure spend by leisure guests per year	\$			474,500	584,000	647,875	647,875	Separate from Leisure Hotel Spend				
<b>TOTAL SPEND BY LEISURE HOTEL GUESTS PER YEAR</b>	\$			1,954,940	3,317,120	3,679,930	3,679,930					
<b>BUSINESS HOTEL GUESTS</b>												
Visitors per room	#			1	1	1	1					
Total business hotel guests per year	\$			9,490	11,680	12,958	12,958					
Average room rate	\$			89	94	97	97					
Percentage of business hotel guests who are residents	%			40%	42%	48%	48%					
Percentage of business hotel guests who are tourists	%			60%	58%	52%	52%					
Total business hotel revenues per year	\$			844,610	1,097,920	1,256,878	1,256,878					
Total gaming spend by business hotel guests per year				635,830	782,560	868,153	868,153	Incremental to 5 year forecast				
Total other non-gaming spend by business hotel guests per year				237,250	292,000	323,938	323,938	Separate from Business Hotel Spend				
<b>TOTAL SPEND BY BUSINESS HOTEL GUESTS PER YEAR</b>				1,717,690	2,172,480	2,448,968	2,448,968					

CHANGES IN SPENDING PATTERNS DUE TO LOTTERY GAMING FACILITY DURING OPERATIONS PHASE									
Company's Name Global Gaming KS, LLC									
Please submit 5-year projections, starting from the date of opening		Unit of Measure							
PROJECTED DATE OF OPENING:	On or about June 2012			Partial Year					
			2011	2012	2013	2014	2015	2016	
Annual Spending by Residents at the Lottery Gaming Facility									Note: Resident visitors here includes both Leisure and Business Resident visitors
Total spending by residents per year (Note: distinguish between residents who gamble (Resident Gaming Visitors) and residents who do not gamble (Resident Non-Gaming Visitors))									
Resident Gaming Visitors (within 100 miles of facility)				791,700	1,613,850	1,766,100	1,766,100	1,948,800	
Accommodation	\$			-	1,351,376	1,756,672	2,011,004	2,011,004	
Food & Beverage	\$			\$ 3,090,932.00	\$7,418,240.00	\$7,789,152.00	\$ 8,178,609.60	\$ 8,587,539.20	
Retail	\$			30,000	60,000	66,000	66,000	66,000	
Gaming	\$			53,043,900	108,127,950	118,328,700	118,328,700	130,569,600	
Tickets to events, concerts, shows	\$			640,000	1,280,000	1,408,000	1,408,000	1,548,800	
Other spending	\$			-	-	\$5,600,000.00	\$ 6,640,000.00	\$ 7,200,000.00	
TOTAL spending by gaming visitors (residents)	\$	-	-	56,804,832	118,237,566	134,948,524	136,632,314	149,982,943	
Resident Non-Gaming Visitors (within 100 miles from the facility)				63,336	64,554	70,644	70,644	77,952	
Accommodation	\$			-	50,677	65,875	75,413	75,413	
Food & Beverage	\$			\$ 115,909.95	\$ 278,184.00	\$ 292,093.20	\$ 306,697.86	\$ 322,032.72	
Retail	\$			2,250	2,250	2,475	2,475	2,475	
Tickets to events, concerts, shows	\$			-	-	-	-	-	
Ticketed attractions	\$			48,000	48,000	52,800	52,800	58,080	
Other spending	\$			-	-	\$ 210,000.00	\$ 249,000.00	\$ 270,000.00	
TOTAL spending by non gaming visitors (residents)	\$			166,160	379,111	623,243	686,386	728,000	
Total Spending by Residents									
Gaming	\$								
Non Gaming	\$								
TOTAL SPENDING BY RESIDENTS AT LOTTERY GAMING FACILITY	\$			56,970,992	118,616,677	135,571,767	137,318,699	150,710,944	

<b>Company's Name Global Gaming KS, LLC</b>									
<i>Please submit 5-year projections, starting from the date of opening</i>	Unit of Measure								
<b>PROJECTED DATE OF OPENING:</b>	<b>On or about June 2012</b>			Partial Year					
			2011	2012	2013	2014	2015	2016	
<b>SOURCES OF EXPENDITURES AT LOTTERY GAMING FACILITY: For the following questions, provide your best estimates, based on your economic models</b>									
Percent of Spend that would have occurred within the region*	%								* What percent of residents' total spend would have taken place within the 100-mile radius if the LGF facility did not exist
Percent of Spend that would have taken place outside the region**	%								**Without an LGF, what percent would have been spent outside the 100-mile radius
Percent of Spend that comes from new income generated in the region***	%								***Percent of total spending by residents that comes from income generated by the LGF and its multiplier effects
Tourist Gaming Visitors	No.								
Tourist Non-Gaming Visitors	No.								
<b>Tourist Gaming Visitors</b>									
Accommodation	\$			\$ -	\$ 253,383	\$ 329,376	\$ 377,063	\$ 377,063	
Food & Beverage	\$			\$ 579,549.75	\$1,390,920.00	\$1,460,466.00	\$ 1,533,489.30	\$ 1,610,163.60	
Retail	\$			\$ 11,250	\$ 11,250	\$ 12,375	\$ 12,375	\$ 12,375	
Gaming	\$			\$ 10,217,500	\$ 20,435,000	\$ 22,110,000	\$ 22,110,000	\$ 25,125,000	
Tickets to events, concerts, shows	\$			\$ 240,000	\$ 240,000	\$ 264,000	\$ 264,000	\$ 290,400	
Other spending	\$			\$ -	\$ -	\$1,050,000.00	\$ 1,245,000.00	\$ 1,350,000.00	
TOTAL spending by gaming visitors (tourists)	\$			\$ 11,048,300	\$ 22,330,553	\$ 25,226,217	\$ 25,541,928	\$ 28,765,002	

<b>Company's Name Global Gaming KS, LLC</b>									
<i>Please submit 5-year projections, starting from the date of opening</i>	Unit of Measure								
<b>PROJECTED DATE OF OPENING:</b>	<b>On or about June 2012</b>			Partial Year					
			2011	2012	2013	2014	2015	2016	
<b>Tourist Non-Gaming Visitors</b>									
Accommodation	\$			\$ -	\$ 16,892	\$ 21,958	\$ 25,138	\$ 25,138	
Food & Beverage	\$			\$ 38,636.65	\$ 92,728.00	\$ 97,364.40	\$ 102,232.62	\$ 107,344.24	
Retail	\$			\$ 750	\$ 750	\$ 825	\$ 825	\$ 825	
Gaming	\$			\$ -	\$ -	\$ -	\$ -	\$ -	
Tickets to events, concerts, shows	\$			\$ 16,000	\$ 16,000	\$ 17,600	\$ 17,600	\$ 19,360	
Other spending	\$			\$ -	\$ -	\$ 70,000.00	\$ 83,000.00	\$ 90,000.00	
TOTAL spending by non-gaming visitors (tourists)	\$	-	-	\$ 55,387	\$ 126,370	\$ 207,748	\$ 228,795	\$ 242,667	
<b>TOTAL SPENDING BY TOURISTS AT LOTTERY GAMING FACILITY</b>				\$ 11,103,686	\$ 22,456,923	\$ 25,433,965	\$ 25,770,723	\$ 29,007,669	Note: Tourist visitors here includes both Leisure and Business Tourist visitors

<b>Company's Name Global Gaming KS, LLC</b>									
<i>Please submit 5-year projections, starting from the date of opening</i>	Unit of Measure								
<b>PROJECTED DATE OF OPENING:</b>	<b>On or about June 2012</b>			Partial Year					
			2011	2012	2013	2014	2015	2016	
<b>SOURCES OF EXPENDITURES AT LOTTERY GAMING FACILITY: For the following questions, provide your best estimates, based on your economic models</b>									
What proportion of Tourist visitors would not have visited the region if the Lottery Gaming Facility did not exist?	%								
What proportion of Tourist visitor spending would not have occurred within the region if the Lottery Gaming Facility did not exist?	%								
Please provide your estimate of induced spending by resident visitors to the LGF (import substitution)	\$								
Please provide your estimate of direct spending by tourist visitors to the LGF (newly injected spending)	\$								
Please provide your estimate of induced spending by tourist visitors to the LGF (newly injected spending to the region but not at the LGF)	\$								
Please provide your estimate of an appropriate expenditure multiplier for the region	#								
TOTAL DIRECT, INDIRECT,, AND INDUCED INCREASES IN SPENDING IN THE REGION, PER YEAR (SPEND)	\$								
ESTIMATED AGGREGATE PERSONAL INCOME IN THE REGION (API)	\$								
RATIO OF SPEND/API	#								



Company's Name Global Gaming KS, LLC									
Please submit 5-year projections, starting from the date of opening	Unit of Measure								
PROJECTED DATE OF OPENING:	On or about June 2012			Partial Year					
			2011	2012	2013	2014	2015	2016	
Instructions to Proposers									
The intent of this section is to provide a foundation to estimate the amount of new direct spending (from import substitution by residents and newly injected spending by tourists), and then to estimate the indirect increases in expenditure brought about in the region via a regional expenditure multiplier process									
INDUCED SPENDING BY RESIDENTS is incremental spending that results from residents who are in the region because of the LGF (rather than visiting other regions) and the additional expenditures they make in the region as a result. <u>(This does not include substitution or "cannibalization" of spending that would have shifted from other businesses in the region to the LGF.)</u>									
INDUCED SPENDING is incremental spending that results from tourists who stay longer in the region because of the LGF and the additional expenditures they make in the region, <u>not at the LGF</u> , as a result of their longer stays.									

<b>EMPLOYMENT INFORMATION DURING OPERATIONS' PHASE OF LOTTERY GAMING FACILITY</b>												
<b>Company's Name: Global Gaming KS, LLC</b>												
<i>Please submit 5-year projections, starting from the date of opening</i>	Unit of Measure											
<b>PROJECTED DATE OF OPENING:</b>	On or about June 2012											
		2012	2013	2014	2015	2016						
<b>No. of FTE Workers employed within the Lottery Gaming Facility</b>	836											
<b>General and Administrative</b>												
Professionals, Managers, Executives and Technicians	12	12	12	13	13	14						
Clerical Workers, Sales and Service Workers	16	21	21	22	22	23						
<b>Casino</b>												
Professionals, Managers, Executives and Technicians	100	124	124	128	128	132						
Dealers and game supervisors	125	156	156	171	171	176						
Clerical Workers, Sales and Hosts	32	52	52	54	54	56						
Security and surveillance	100	80	80	82	82	85						
Cleaners	47	40	45	56	56	42						
Other	100	154	159	166	166	169						
<b>Hotel</b>		59	61	63	65	67						
Professionals, Managers, Executives and Technicians	24		3	3	3							
Clerical Workers, Sales and Marketing Staff			9	9	9							
Room cleaners, housekeeping supervisors			12	12	12							
Other												

<b>Company's Name: Global Gaming KS, LLC</b>												
<i>Please submit 5-year projections, starting from the date of opening</i>		Unit of Measure										
<b>PROJECTED DATE OF OPENING:</b>		On or about June 2012										
			2012	2013	2014	2015	2016					
<b>No. of FTE Workers employed within the Lottery Gaming Facility</b>		836										
<b>Food and Beverage</b>												
Professionals, Chefs, Managers, Executives and Technicians		12	15	15	15	15	15					
Clerical Workers, Sales and Service Workers		0										
Food preparers and servers, Hosting staff, and Cleaners		135	170	170	170	170	170					
Other		0										
<b>Other (including convention, entertainment, retail, etc.)</b>		118	118	122	126	130	134					
Professionals, Managers, Executives and Technicians												
Clerical Workers, Compliance, Accounting, and Sales												
Human Resources												
Other												
<b>Others (Travel Plaza)</b>												
Professionals, Managers, Executives and Technicians		4	4	4	4	5	5					
Clerical Workers, Sales and Service Workers		10	10	11	11	12	13					
Production and Transport Operators, Laborers and Cleaners		1	1	1	1	2	2					
<b>TOTAL EMPLOYED BY THE LGF</b>		836	1016	1057	1106	1115	1103					
<b>FTE=full time equivalent</b>												

<b>PAYROLL INFORMATION DURING OPERATIONS' PHASE OF LOTTERY GAMING FACILITY</b>										
<b>Company's Name: Global Gaming KS, LLC</b>										
<i>Please submit 5-year projections, starting from the date of opening</i>	Year									
<b>PROJECTED DATE OF OPENING:</b>	On or about June 2012									
				2012	2013	2014	2015	2016		
<b>Total Payroll of Workers employed within the Lottery Gaming Facility, including cost of paid benefits such as health insurance, unemployment insurance, worker's compensation, retirement.</b>										
<b>General and Administrative</b>				924,000	1,359,600	1,400,338	1,442,400	1,485,672		
Professionals, Managers, Executives and Technicians										
Clerical Workers, Sales and Service Workers										
<b>Casino</b>				12,289,200	18,082,680	21,265,159	21,903,115	25,200,207		
Professionals, Managers, Executives and Technicians										
Dealers and game supervisors										
Clerical Workers, Sales and Hosts										
Security and surveillance										
Cleaners										
Other										

				2012	2013	2014	2015	2016		
<b>Hotel</b>										
Professionals, Managers, Executives and Technicians					120,000	125,000	128,000	128,000		
Clerical Workers, Sales and Marketing Staff					140,000	140,000	140,000	140,000		
Room cleaners, housekeeping supervisors					122,000	124,000	128,000	128,000		
Other										
<b>Food and Beverage</b>										
Professionals, Chefs, Managers, Executives and Technicians				382,503	918,007	963,908	1,012,103	1,062,708		
Clerical Workers, Sales and Service Workers										
Food preparers and servers, Hosting staff, and Cleaners				776,597	1,863,833	1,957,024	2,054,876	2,157,619		
Other										
<b>Other (including convention, entertainment, retail, etc.)</b>				267,960	394,284	406,113	418,296	430,845		
Professionals, Managers, Executives and Technicians										
Clerical Workers, Compliance, Accounting, and Sales										
Human Resources										
Other										
<b>Others (Travel Plaza)</b>										
Professionals, Managers, Executives and Technicians				170,400	175,800	181,200	186,636	192,235		
Clerical Workers, Sales and Service Workers				190,200	196,200	201,600	207,648	213,877		
Production and Transport Operators, Laborers and Cleaners				37,200	38,400	39,600	40,788	42,012		
<b>TOTAL PAYROLL (INCLUDING BENEFITS) FOR THE LGF</b>				15,038,060	23,410,804	26,803,942	27,661,862	31,181,175		

Company's Name: Global Gaming KS, LLC								
<b>Consolidated Pro-Forma Income and Expenditure Statement for the LGF</b>								
<i>Amounts in thousands of dollars</i>								
<i>Please submit 5-year projections, starting from the date of opening</i>					Unit of Measure			
<b>PROJECTED DATE OF OPENING:</b>					On or about June 2012			
	2009	2010	2011	2012	2013	2014	2015	2016
<b>REVENUE (from below)</b>								
Casino				126,290,000	128,662,500	140,707,500	140,707,500	156,585,000
Hotel				-	1,509,200	1,638,000	1,701,776	1,701,776
Food				2,509,500	6,022,800	6,323,940	6,640,137	6,972,143
Beverage				1,354,165	3,250,000	3,412,500	3,583,125	3,762,281
Convention				-	-	-	-	-
Entertainment				1,600,000	1,600,000	1,760,000	1,760,000	1,936,000
Retail				75,000	75,000	82,500	82,500	90,750
Other				-	-	7,000,000	8,300,000	9,000,000
<b>Gross Revenues</b>				131,828,665	141,119,500	160,924,440	162,775,038	180,047,950
less: cost of sales				38,620,220	39,279,775	42,996,965	42,996,965	47,816,459
<b>Gross Margin</b>				93,208,445	101,839,725	117,927,475	119,778,073	132,231,491
<b>DEPARTMENTAL EXPENSES (from below)</b>				22,886,875	23,510,539	27,292,913	28,033,758	31,936,828
<b>DEPARTMENTAL INCOME</b>				70,321,570	78,329,186	90,634,562	91,744,315	100,294,663

	2009	2010	2011	2012	2013	2014	2015	2016
<b>GENERAL AND ADMINISTRATIVE EXPENDITURE</b>								
Advertising and Promotion				10,000,000	7,000,000	9,000,000	9,000,000	10,000,000
Bad debt expense				-	-	-	-	-
Complementary expense (not reported in departments)				-	-	-	-	-
Depreciation - Buildings				9,845,893	9,972,893	11,349,893	11,476,893	12,877,693
Depreciation and Amortization (licensing fee)				1,666,667	1,666,667	1,666,667	1,666,667	1,666,667
Energy Expense (electricity, gas, etc.)								
Equipment rental or lease				100,000	103,000	106,090	109,273	112,551
Interest expense				7,589,481	7,335,655	7,060,761	6,763,050	6,440,630
Payroll taxes an payroll taxes				1,320,000	1,359,600	1,400,388	1,442,400	1,485,672
Payroll - Employee benefits				-	-	-	-	-
Payroll - officers				-	-	-	-	-
Rent of Premises				-	-	-	-	-
Taxes - Real Estate				3,146,570	3,067,906	2,991,208	2,916,428	2,843,517
Taxes and Licenses - Other				-	-	-	-	-
Utilities (other than Energy Expenses)				2,500,000	2,575,000	2,703,750	2,784,863	2,924,106
Other General and Administrative expenses				100,000	103,000	106,090	109,273	112,551
Repairs and maintenance				350,000	500,000	700,000	800,000	1,000,000
Staff amenities				150,000	154,500	159,135	163,909	168,826
Supplies				1,000,000	1,030,000	1,060,900	1,092,727	1,125,509
Uniforms				80,000	82,400	84,872	87,418	90,041
Insurance				1,500,000	1,545,000	1,591,350	1,639,091	1,688,263
<b>TOTAL GENERAL AND ADM. EXPENDITURE</b>				39,348,611	34,950,621	38,389,754	38,412,901	40,847,763
<b>NET INCOME BEFORE FEDERAL INCOME TAX</b>								
				30,972,959	43,378,565	52,244,808	53,331,414	59,446,900

	2009	2010	2011	2012	2013	2014	2015	2016
<b>DEPARTMENTAL INCOME STATEMENTS</b>								
<b>CASINO DEPARTMENT</b>								
<b>REVENUE</b>								
Pit Revenue (including keno, bingo) -ALL TABLES				21,900,000	21,900,000	21,900,000	21,900,000	21,900,000
Electronic gaming machines				104,390,000	106,762,500	118,807,500	118,807,500	134,685,000
Poker and other non-banked card games				126,290,000	128,662,500	140,707,500	140,707,500	156,585,000
<b>TOTAL REVENUE</b>								
<b>DEPARTMENTAL EXPENSES</b>								
Bad debt expenses				-	-	-	-	-
Commissions				-	-	-	-	-
Complementary expenses				2,098,075	2,098,075	2,598,075	2,598,075	3,098,075
Gaming taxes and licenses				36,933,420	37,652,975	41,063,285	41,126,939	45,606,448
Preferred guest expenses				-	-	-	-	-
Payroll taxes				-	-	-	-	-
Payroll - Employee Benefits and taxes				4,256,000	4,383,680	5,155,190	5,309,846	6,109,141
Payroll - Officers				-	-	-	-	-
Payroll - Other Employees				13,300,000	13,699,000	16,109,969	16,593,269	19,091,066
Other Departmental Expenses				-	-	-	-	-
Preferred guest expenses				800,000	824,000	848,720	874,182	900,407
Payroll taxes				-	-	-	-	-
<b>TOTAL EXPENSES</b>				57,387,495	58,657,730	65,775,239	66,502,311	74,805,137
<b>TOTAL CASINO INCOME</b>				68,902,505	70,004,770	74,932,261	74,205,189	81,779,863
<b>HOTEL DEPARTMENT</b>								
<b>REVENUE</b>								
Room Sales				-	1,509,200	1,638,000	1,701,776	-
Complementary rooms				-	-	-	-	-
<b>TOTAL REVENUE</b>				-	1,509,200	1,638,000	1,701,776	-
<b>DEPARTMENTAL EXPENSES</b>								
Bad debt expenses				-	-	-	-	-
Complementary expenses				-	-	-	-	-
Payroll taxes				-	31,992	33,150	33,600	-
Payroll - Employee Benefits				-	12,000	14,000	16,500	-
Payroll - Officers				-	120,000	125,000	128,000	-
Payroll - Other Employees				-	140,000	140,000	140,000	-
Other Departmental Expenses				-	122,000	124,000	128,000	-
Payroll taxes				-	150,000	160,000	170,000	-
<b>TOTAL EXPENSES</b>				-	575,992	596,150	616,100	-
<b>TOTAL HOTEL INCOME</b>				-	933,208	1,041,850	1,085,676	-



	2009	2010	2011	2012	2013	2014	2015	2016
<b>FOOD DEPARTMENT</b>								
<b>REVENUE</b>								
Food Sales				2,509,500	6,022,800	6,323,940	6,640,137	6,972,143
Complementary Food Sales				-	-	-	-	-
<b>TOTAL REVENUE</b>				2,509,500	6,022,800	6,323,940	6,640,137	6,972,143
Cost of sales				1,756,650	4,215,960	4,426,758	4,648,095	4,880,500
<b>GROSS MARGIN</b>				752,850	1,806,840	1,897,182	1,992,042	2,091,643
<b>DEPARTMENTAL EXPENSES</b>								
Bad debt expenses				-	-	-	-	-
Complimentary expenses				-	-	-	-	-
Payroll taxes								
Payroll - Employee Benefits				64,000	65,920	67,898	69,935	72,033
Payroll - Officers				-	-	-	-	-
Payroll - Other Employees				200,000	206,000	212,180	218,545	225,102
Other Departmental Expenses				25,000	25,750	26,523	27,318	27,318
Payroll taxes				-	-	-	-	-
<b>TOTAL EXPENSES</b>				289,000	297,670	306,601	315,798	324,453
<b>TOTAL FOOD INCOME</b>				463,850	1,509,170	1,590,581	1,676,244	1,767,190
<b>BEVERAGE DEPARTMENT</b>								
<b>REVENUE</b>								
Beverage Sales				1,354,165	3,250,000	3,412,500	3,583,125	3,762,281
Complementary Beverage Sales				-	-	-	-	-
<b>TOTAL REVENUE</b>				1,354,165	3,250,000	3,412,500	3,583,125	3,762,281
Cost of sales				338,541	812,500	853,125	895,781	940,570
<b>GROSS MARGIN</b>				1,015,624	2,437,500	2,559,375	2,687,344	2,821,711
<b>DEPARTMENTAL EXPENSES</b>								
Bad debt expenses				-	-	-	-	-
Complimentary expenses				-	-	-	-	-
Payroll taxes				16,000	16,480	16,974	17,484	18,008
Payroll - Employee Benefits								
Payroll - Officers								
Payroll - Other Employees				50,000	51,500	53,045	54,636	43,709
Other Departmental Expenses				25,000	25,750	26,523	27,319	28,138
Payroll taxes								
<b>TOTAL EXPENSES</b>				91,000	93,730	96,542	99,439	89,855
<b>TOTAL BEVERAGE INCOME</b>				924,624	2,343,770	2,462,833	2,587,905	2,731,855

	2009	2010	2011	2012	2013	2014	2015	2016
<b>CONVENTION DEPARTMENT</b>								
<b>REVENUE</b>								
Total Sales				-	-	-		
Complementary Sales				-	-	-		
<b>TOTAL REVENUE</b>								
Cost of sales								
<b>GROSS MARGIN</b>								
<b>DEPARTMENTAL EXPENSES</b>								
Bad debt expenses								
Complimentary expenses								
Payroll taxes								
Payroll - Employee Benefits								
Payroll - Officers								
Payroll - Other Employees								
Other Departmental Expenses								
Payroll taxes								
<b>TOTAL EXPENSES</b>								
<b>TOTAL CONVENTION INCOME</b>								

	2009	2010	2011	2012	2013	2014	2015	2016
<b>ENTERTAINMENT DEPARTMENT</b>								
<b>REVENUE</b>								
Total Sales				800,000	1,600,000	1,760,000	1,760,000	1,936,000
Complementary Sales				-	-	-	-	-
<b>TOTAL REVENUE</b>								
Cost of sales				1,000,000.00	2,000,000.00	2,200,000.00	22,000,000.00	2,420,000.00
<b>GROSS MARGIN</b>								
<b>DEPARTMENTAL EXPENSES</b>								
Bad debt expenses				-	-	-	-	-
Complimentary expenses				-	-	-	-	-
Payroll taxes				-	-	-	-	-
Payroll - Employee Benefits				-	-	-	-	-
Payroll - Officers				-	-	-	-	-
Payroll - Other Employees				-	-	-	-	-
Other Departmental Expenses				-	-	-	-	-
Payroll taxes				-	-	-	-	-
<b>TOTAL EXPENSES</b>				-	-	-	-	-
<b>TOTAL ENTERTAINMENT INCOME</b>				-	-	-	-	-
<b>RETAIL</b>								
<b>REVENUE</b>								
Total Sales				75,000	75,000	82,500	82,500	82,500
Complementary Sales				-	-	-	-	-
<b>TOTAL REVENUE</b>				75,000	75,000	82,500	82,500	82,500
Cost of sales				18,750	18,750	20,625	20,625	22,688
<b>GROSS MARGIN</b>				56,250	56,250	61,875	61,875	59,812

	2009	2010	2011	2012	2013	2014	2015	2016
<b>DEPARTMENTAL EXPENSES</b>								
Bad debt expenses				-	-	-	-	-
Complimentary expenses				-	-	-	-	-
Payroll taxes				-	-	-	-	-
Payroll - Employee Benefits				12,800	13,184	13,580	13,987	14,407
Payroll - Officers				-	-	-	-	-
Payroll - Other Employees				40,000	41,200	42,436	43,709	45,020
Other Departmental Expenses				-	-	-	-	-
Payroll taxes				-	-	-	-	-
<b>TOTAL EXPENSES</b>				52,800	54,384	56,016	57,696	59,427
<b>TOTAL RETAIL INCOME</b>				3,450	1,866	5,859	4,179	385
<b>OTHER DEPARTMENTAL INCOME (please specify)</b>								
Travel Plaza								
<b>REVENUE</b>				-	-	-	-	-
Total Sales				-	-	7,000,000	8,300,000	9,000,000
Complementary Sales				-	-	-	-	-
<b>TOTAL REVENUE</b>								
Cost of sales				-	-	6,230,000	7,387,000	8,010,000
<b>GROSS MARGIN</b>				-	-	770,000	913,000	990,000
<b>DEPARTMENTAL EXPENSES</b>				-	-	-	-	-
Bad debt expenses				-	-	-	-	-
Complimentary expenses				-	-	-	-	-
Payroll taxes				-	-	-	-	-
Payroll - Employee Benefits				-	-	-	-	-
Payroll - Officers				-	-	170,400.00	175,800.00	181,200.00
Payroll - Other Employees				-	-	190,200.00	196,200.00	201,600.00
Other Departmental Expenses				-	-	-	-	-
Payroll taxes				-	-	-	-	-
<b>TOTAL EXPENSES</b>				-	-	-	-	-
<b>TOTAL OTHER DEPARTMENTAL INCOME</b>				-	-	-	-	-

CONSTRUCTION PHASE INFORMATION DURING OPERATIONS PHASE OF LOTTERY GAMING FACILITY												
Company's Name: Global Gaming KS, LLC <i>Please submit 5-year projections, starting from the date of opening</i> <b>PROJECTED DATE OF OPENING:</b>												
	Year and Dollars											
	On or about June 2012											
	2011	2012	2013	2014	2015	2016						
		Year 1 of ops	Year 2 of ops	Year 3 of ops	Year 4 of ops	Year 5 of ops						
Development Investment												
Fixed asset investment												
	\$	\$	\$	\$	\$							
Buildings	53,033,333	26,516,667										
Land and land improvements	2,000,000	-	-	-	-							
Public sector infrastructure	5,000,000	-	-	-	-							
Rolling stock	Included in FFE	Included in FFE	Included in FFE	Included in FFE	Included in FFE							
Furniture, Fixtures and Equipment		20,000,000										
Floor and Wall Treatments	included in "Buildings"	included in "Buildings"	included in "Buildings"	included in "Buildings"	included in "Buildings"							
Gaming equipment (new machines)	-	25,000,000	-	6,885,000	-	6,885,000						
Gaming equipment (games replacement and upgrades)	-	-	585,000	1,350,000	1,350,000							
Others (New club house and upgraded greens at an existing, nearby facility)				3,000,000								
Others (Travel Plaza)		6,000,000										
Others (Hotel)			10,000,000									
TOTAL INVESTMENT	60,033,333	77,516,667	10,585,000	11,235,000	1,350,000							
Source of Funds for Investment												
Percent each year from:												
Construction Loan (interest on the Construcion Loan)		2,550,000										
Debt	85,000,000											
Working Capital from Parent Company		4,450,000										
Equity	80,000,000											
Other (Start-Up Costs)		9,000,000										
Athe following figures on a Quarterly basis		2009-IV	2010-I	2010-II	2010-III	2010-IV	2011-I	2011-II	2011-III	2011-IV		
Development Employment Data	This information is pending final construction contract and other factors.											
Construction Employment												
Average hourly Wage per employee, excluding benefits												
Total construction payroll												
Average Hourly Benefits per employee												
Other expenses per employee												
Cost of materials from region												
Cost of materials from outside of region												
Other Development Expenses												

Company's Name											
PUBLIC SECTOR IMPACTS OF LGF											
					2011	2012	2013	2014	2015	2016	
<b>Population Growth</b>	<b>Units of Measure</b>										
# of Construction Employees who will be new residents to the area	#				100						
# of LGF (operating) employees who will be new residents to the area	#				25	210	231	254	305	351	
<b>Infrastructure Costs</b>	<b>Total infrastructure cost, incl. Roads/ Streets, Water/ Sewer, Storm Drains, EMS and Law Enforcement is \$5m.</b>										
Roads/Streets Improvements	\$	<b>This \$5 million amount is 100% paid by the Developer.</b>									
% Paid by Developer	%				100%						
% Paid by Public Sector	%				0%						
Water/Sewer Improvements	\$										
% Paid by Developer	%				100%						
% Paid by Public Sector	%				0%						
Storm Drains	\$				Included in Site Development						
% Paid by Developer	%				100%						
% Paid by Public Sector	%				0%						
Law Enforcement Building, New or Improved	\$				Public Safety facility includes law enforcement, ems and fire services						
% Paid by Developer	%				100%						
% Paid by Public Sector	%				0%						
Fire Station, New or Improved	\$										
% Paid by Developer	%				100%						
% Paid by Public Sector	%				0%						
<b>Operating Costs</b>											
<b>School System</b>											
# of Additional K-12 students (cumulative)	#				25	65	125	150	175	180	
Estimated number of additional K-12 teachers (cumulative increase)	#				0	1	2	3	3	3	
K-12 support staff (cumulative increase)	#					0	0.5	1	1	1	
Estimated cost of capital construction	#				No need for add'l construction of schools at Exit 19						
Estimated cost of additional rolling stock (bus lease costs/cumulative)	\$						\$ 33,000	\$ 49,500	\$ 49,500	\$ 49,500	
<b>Law Enforcement</b>											
Estimated # of add't personnel											
Uniform	#				Wellington PD	4					
	#				Sumner SO	4					

					2011	2012	2013	2014	2015	2016	
Estimated salary/benefits											
Uniform		\$	Wellington PD		\$ 162,240	\$ 167,107	\$ 172,120	\$ 177,284	\$ 182,603	\$ 188,081	
		\$	Sumner SO		\$ 144,000	\$ 148,320	\$ 152,770	\$ 157,353	\$ 162,073	\$ 166,935	
Estimated add't non-salary											
expense (services/supplies)		\$	Wellington PD		\$ 12,000	\$ 12,360	\$ 12,731	\$ 13,113	\$ 13,506	\$ 13,911	
expense (services/supplies)		\$	Sumner SO		\$ 16,000	\$ 16,480	\$ 16,974	\$ 17,484	\$ 18,008	\$ 18,548	
Estimated add't rolling stock											
expense		\$	Wellington PD		\$ 70,000	\$ 35,000			\$ 35,000		\$ 35,000.00
expense			Sumner SO		\$ 87,000	\$ 29,000		\$ 29,000	\$ 29,000	\$ 29,000	
		\$									
<b>Fire Protection-EMS Service Combined</b>											
Estimated # of add't personnel											
Uniform					\$ 6						
Non-Uniform		#									
Estimated salary/benefits											
Uniform		\$			\$ 525,000	\$ 540,750	\$ 556,973	\$ 573,682	\$ 590,892	\$ 608,619	
Non-Uniform		\$									
Estimated add't non-salary											
expense (services/supplies)		\$			Included in Salary estimate						
Estimated add't rolling stock											
expense		\$			\$ 425,000.00	1 ambulance, 1 rescue truck					
Estimated add't capital outlay											
expense (computers, equipment)		\$									
<b>Ambulance Service</b>											
						Include in Fire Department calculations					
Estimated # of add't personnel											
Uniform		#									
Non-Uniform		#									
Estimated salary/benefits											
Uniform		\$									
Non-Uniform		\$									
Estimated add't non-salary											
expense (services/supplies)		\$									
Estimated add't rolling stock											
expense		\$									
Estimated add't capital outlay											
expense (computers, equipment)		\$									
<b>Public Sector Revenue</b>											
					2011	2012	2013	2014	2015	2016	
Change in Ad Valorem Tax (Property Tax)										Attributable to this project and its consequences	
State		\$			1,076	37,125	38,238	39,385	40,567	41,784	
County		\$			29,912	1,375,852	1,417,128	1,459,641	1,503,431	1,548,534	
City		\$			33,560	986,535	1,016,131	1,046,614	1,078,013	1,110,353	

					<u>2011</u>	<u>2012</u>	<u>2013</u>	<u>2014</u>	<u>2015</u>	<u>2016</u>	
Additional Sales and Use Tax											
County		\$				\$ 55,386.65	\$ 126,378.00	\$ 151,879.40	\$ 157,952.12	\$ 166,088.46	
City		\$				\$ 69,233.31	\$ 157,972.50	\$ 189,849.25	\$ 197,440.15	\$ 207,610.58	
LGF Gaming Revenue											
Exp. Lottery Act Revenue Fund		\$				27,783,800	28,305,750	30,955,650	30,955,650	34,448,700	
Problem Gambling Fund		\$				2,525,800	2,573,250	2,814,150	2,814,150	3,131,700	
Cities (Wellington)		\$				1,262,900	1,286,625	1,407,075	1,407,075	1,565,850	
County (Sumner)		\$				1,262,900	1,286,625	1,407,075	1,407,075	1,565,850	
County (Sedgwick)						1,262,900	1,286,625	1,407,075	1,407,075	1,565,850	
Additional Lodging Tax		\$					101,353	131,750	150,825	150,825	
Additional State Income Tax		\$				511,294	748,979	898,108	927,039	1,046,695	
Travel Plaza Fuel Tax								288,000	288,000	288,000	
Building Fees		\$						936,000	936,000	936,000	
K-12 State Aid (increase for additional students)		\$			93,750	243,750	468,750	562,500	656,250	675,000	
Developer Cash Contribution		\$									
Developer In-Kind Contribution		\$					38,813,805				



**DEVELOPMENT THEORY (the basis for the questions that follow below):** Like any other new business, casino owners/developers typically first establish a set of goals for their new project to achieve. These goals are achieved through the sale of their product(s). Casinos have a Product, i.e., it is what casinos 'sell' and customers come to 'buy.' Business and casinos alike typically execute their Product and Demand Stimulation Marketing Plans by marketing to Target Market Segments individually, collectivized in appropriate groupings, and in aggregate.

As a process casinos, like other businesses, first conceptualize, develop, design, and deliver their Product. The goal is to align the Product to the needs, wants, and expectations of the Marketplace so as to extract the greatest natural demand from the Marketplace. This process may be referred to as Product Marketing. Leading up to and after the Product is launched (or the casino is open) other marketing initiatives are engaged to extract the remaining potential from the Marketplace, specifically the Targeted Market Segments. This process may be referred to as Demand Stimulation Marketing. Demand Stimulation Marketing initiatives typically involve one or more of the following: (1) extracting latent demand from current Targeted Market Segments; (2) where peak demand exceeds supply, moving peak demand to off-peak periods to make room for unserved demand; (3) taking market share away from the competition; and/or (4) identifying and targeting new Target Market Segments. Many Demand Stimulation Marketing Plans are formulated around the consumer's Decision Cycle: i.e., (1) Create Awareness, (2) Motivate Trial; (3) Spur Repeat Visitation, and (4) Engender Loyalty. Demand Stimulation Marketing Plans rely on such marketing tools as: press and public relations, advertising, sales teams, promotions, events, loyalty programs, other database marketing initiatives, third-party marketing resources (e.g., travel agents, group wholesalers, meeting/convention brokers), and for the casino perquisites, promotions, invitation driven special events, hosts, complimentaries, credit, casino-focused loyalty clubs/database marketing, satellite marketing offices, and third-party junket representatives).

Marketing Plans and the elements within them (i.e., the Goal Set, Targeted Market Segments, Product Marketing Plan, and Demand Stimulation Marketing Plan) are continuously monitored and measured, evaluated, and iterated refined by results and shaped by new events and market dynamics. Marketing is a never ending process.

While each casino/owner company looks at and executes their Business Model in their own specific way, the development theory should serve as tool and reference point to help us understand your proposal. Accordingly, please describe your Business Model and Marketing Plan following the questions below which flow from the development theory summarized above. At the conclusion, if the question format and sequence does not fully explain your business approach or proposal, please augment your answers so we have a clear understanding of your approach.

#### **WITH THE DEVELOPMENT THEORY AS BACKGROUND, PLEASE ANSWER THE FOLLOWING QUESTIONS IN**

##### **1. What is the Goal Set you have established for your project? The Goal Set should include both financial and non-financial goals.**

The GGS approach to developing an entertainment facility is an extension of how the Chickasaw Nation has approached local communities for these developments. Both have engaged the local community with their projects.

This project is no different. GGS has collaborated with the community in many ways. Our project includes local businesses in the overall plan. We will continue to seek opportunities to incorporate the interests of the community in our development.

GGS also has a network of proven business partners who are experts at important elements of these types of developments. Those partners provide hotel service, food and beverage services and other services.

GGS does not attempt to reinvent the wheel with its developments. Using experience from past projects, the company knows what is successful and what changes may be necessary. As such, the Exit 19 project uses the basic footprint and lay out of the award winning Riverwind Casino facility in Norman, Oklahoma. Exterior design is significantly different recognizing the local market place.

Starting with plans from an existing facility can greatly accelerate the development cycle, and make rapid construction a possibility.

**2. Describe the overall concept of your project in one paragraph.**

The boundless, flowing prairie landscape and robust spirit of the plains spark the design inspiration for Global Gaming Kansas. Infinite horizons speak to a dynamic environment filled with opportunity – a welcoming gaming destination that draws visitors with a rushing motion like wind across the vast, horizontal plains. The architecture subtly emerges from the ground with a low-lying profile that is intensely luminous by night; anchored to the landscape by day. The interplay of rich pattern, color, texture and scale, and a seamless merging of indoor and outdoor experiences define a warm, elegant informality – at home with the prairie “heartland” lifestyle.

Distinguishing craftsman design details take their cues from historic architectural references found in nearby main streets of Wellington and other towns of Sumner County. These touch points, such as custom wheat and grain motifs detailed in the entrance iron work, are focused at the pedestrian level where guests interact most with the architecture, contributing to the human connection with the gaming experience. Indigenous local species of tall grasses and trees align the entrance to help blend the building with the landscape and the flowing fields beyond. The stacked natural stone building material emphasizes an organic texture and the connection back to nature, while low profile overhanging gabled roofs and exposed wood trusses offer another layer of materiality that enhance the tactile and inviting character of the design.

Entering the generously proportioned Global Gaming Kansas, guests are greeted by a relaxed environment with a fresh design style and an engaging, familiar personality. The property is brimming with rugged, natural and organic elements. An artful marriage of layered materials and textures, intricately detailed wood trusses, amber-lit chandeliers and variations in scale strike a unique balance between the natural environment and state-of-the-art casino technology. The design is driven by the creation of *memorable experiences* – and shaped by infinite horizons echoing the prairie spirit.

**3. Please provide a list, description, and benefits of the market segments you propose to target. If you also expect to achieve any synergies from collectivizing Target Market Segments please identify and explain (e.g., using meeting/convention demand to fill midweek/off-peak hotel capacity). Note: your response in this section need not include any quantification of expected visitor or revenue volume from each.**

The GGS Management Team has a wealth of experience and knowledge related to gaming and entertainment operations along the I-35 corridor. GGS has owned and operated Remington Park casino and racetrack in Oklahoma City, OK since the beginning of this year and is already demonstrating year-to-date financial results 50% ahead of the former ownership group. At the same time, GGS is completing the purchase of Lone Star Park racetrack in Grand Prairie, TX located between Dallas and Ft. Worth inside of I-35E and I-35W. In addition, through GGS' affiliation with the Chickasaw Nation, GGS management and staff have direct experience with several operations of additional entertainment facilities on I-35. Among these facilities on I-35 are WinStar World Casino at the Texas-Oklahoma border with over 6,000 games and a 3,500-seat concert/ convention facility, and Riverwind Casino in Norman, OK with nearly 2,300 games and a 1,500-seat performance theatre.

**4. Please describe your Product Marketing Plan, i.e., what is your overall project concept, programming (see below), design objectives, and delivery/execution plan? How will your intended activity mix align to your Target Market Segments needs, wants, and expectations at a price/cost that will create a value? How will your Product Marketing Plan niche or beat the competition?**

4.A. Programming includes but is not necessarily limited to: the property's overall concept and activity mix. For each activity, programming then extends into the concept for that activity and its capacity, positioning, price/value propositions, design, and delivery. The design and execution of each activity is then integrated into an overall property design and execution, i.e., the effect on the Marketplace not only from a given activity but the sum of all space-time-employee contact your guests from your Targeted Market Segments will have with the project.

The entire lottery gaming enterprise will encompass more than 170 acres of land north of US 160 at Seneca Road in Wellington. With all phases included, the main casino facility will include more than 260,000 square feet not including hotels or other amenities.

Ancillary Facilities through all phases will include:

- ☐ Phase 1 Hotel
- ☐ Municipal Golf Course Upgrade with club house
- ☐ Travel Plaza with full accommodations
- ☐ RV Park
- ☐ Second Hotel Four Star
- ☐ Parking Garage
- ☐ Vintage Race Car race circuit

4.B. Please ensure that your response covers how gaming and non-gaming activities will interact synergistically as well as independently to achieve the Goal Set.

The facility design is intended to complement the architecture of the South Central Kansas region. The distinguishing craftsman design details take their cues from historic architectural references found in nearby main streets of Wellington and other towns of Sumner County, incorporating wide overhanging eaves, exposed beams as well as wood and natural stone accents. In addition, to further enhance the gaming facility's attraction as a tourist and entertainment destination, Global Gaming KS, LLC's master plan includes:

- 1,400-seat event center with 8,000 square feet of convention space
- 80-room hotel
- Wide ranging selection of restaurants, lounges and bars
- Travel plaza to draw passenger cars and tractor trailers traveling on I-35.

Golf course club house consistent with intent of destination quality, and carry out greens update of the existing Wellington Municipal golf course  
Depending on future market conditions, a second hotel as well as an RV park and other amenities may be built.

**5. Please provide a description of your pre-opening Demand Stimulation Marketing Plan, i.e., how you intend to market to and penetrate the aforementioned Target Market Segments to create initial awareness and motivate initial trial. Please also include the pre-opening marketing budget that should align to your pre-opening marketing plan (e.g., '\$X will be spent on marketing strategy, tactic, and/or initiative Y). We are not looking for 'granular' detail; rather, we are seeking a general understanding of how you intend to create awareness prior to opening and promote trial at opening and the initial period afterwards.**

Please see the embedded PDF document to the right of this cell.

Marketing Plan by  
Global Gaming KS fo

**6. Please provide a description of your post-opening Demand Stimulation Marketing Plan, i.e., how you intend to market to the aforementioned Target Market Segments to continue to create additional awareness and motivate new trial among new patrons but also to move into the next phase of motivating repeat visitation and engendering loyalty among those who have already visited. Your response should indicate how you intend to continue to penetrate a given Target Market Segment until optimal demand has been extracted and how you intend to seek and identify new Target Market Segments to penetrate. Please also include your post-opening marketing budget that should align to your post-opening marketing plan (e.g., '\$A will be spent on marketing strategy, tactic, and/or initiative B). Here again, we are not looking for 'granular' detail; rather, we are seeking a general understanding of how you intend to market post-opening to achieve target levels of business volume.**

In addition to what Global Gaming KS, LLC previously submitted on pre-opening and grand-opening plans in the Lottery Gaming Facility Manager's application of 22 July 2010 ([please see embedded PDF file of the relevant section](#)), the on-going marketing areas will include: (1) growth of the player development program, (2) big events marketing to maximize the value of the Entertainment Center, (3) promote group sales including a busing program, (4) joint marketing efforts with Travel Plaza/ Hotel/ Golf Course/ Food & Beverage/ etc., (5) specific weekly promotion and events driven campaigns leveraging promotional credits advantages over neighboring states, (6) extracting synergies with Applicant's existing properties on the I-35 corridor, and (7) mass advertising to create destination brand awareness and unique gaming offerings (not offered in Oklahoma).

Based on the financial forecast, the overall advertising and promotions budget is \$45 million for the first five years of operations.

**7. Notwithstanding the individual answers above, how does the Sum of the Parts combine to meet or exceed the needs of the marketplace, allow the property to niche/beat the competition, and accomplish the owner's and KLFGRB respective Goal Set?**

Global Gaming KS, LLC and its parent entities, Global Gaming Solutions, LLC and the Chickasaw Nation, have superb knowledge and proven experience of the I-35 corridor, already serving 2.3 million registered and loyal gamers.  
Global Gaming KS, LLC has unrivalled experience in the selection of gaming product (games, tables, denominations, titles, etc.) to maximize customer play. The Chickasaw Nation operates 13,000 games in Oklahoma.  
Global Gaming KS, LLC and its parent entities also have significant experience creating destination brands in the region.  
Global Gaming KS, LLC has proven strategic partnerships and demonstrated track record of designing and meeting customer expectations.  
**In summary, all of the proposed amenities by Global Gaming KS, LLC have the demonstrated goal of "maximizing gaming revenue".**

**8. If the answers to the questions above do not fully explain your development approach, then please augment your answers so that we have a clear understanding of what you propose and how you intend to execute.**

Please see previous answers.

<b>PLEASE NOTE WHAT YOU CONSIDER TO BE THE TEN MOST IMPORTANT FEATURES OF YOUR PROPOSAL.</b>
<b>What factors of your proposal are most distinctive in making it more attractive to Kansas and its residents than a "generic" gaming facility that could be developed within this zone?</b>
<b>Please provide descriptions of ten (or fewer) features in 250 words or less for each.</b>
Our financing commitments for Phase 1 are in place: both in the form of debt and equity.
Our proven experience of management team and unrivalled knowledge of, and proven success operating in the I-35 market.
Our un-qualified support from the local community and residents as a result of our demonstrated history of partnering with local communities and businesses.
Our site is located immediately adjacent to Exit 19 on I-35 and is centered within Sumner County.
Our use of strategic partnerships to bring nationally recognized brands to the hotel, food & beverage, and other amenities offerings.
Our ability to tailor entertainment suitable for the market.
Our operating model is based on successful, existing I-35 destination properties.
Our location is the only one to receive Sumner County's endorsement.
Our unique capacity to train employees.
Our inclusion of a travel plaza facility will draw additional trucks, RVs and pass-through traffic to the entertainment facility.

SUMMARY OF PROPOSAL DATA										
<b>Proposer:</b> Global Gaming KS, LLC										
Casino Project Name WinSpirit Casino										
<b>Project Description</b>				<b>Unit of Measure</b>						
<b>From award of license to opening (in months)</b>				14 months after all approvals						
<b>Temporary facility if applicable</b>				Not applicable						
<b>Permanent facility</b>				14 months after all approvals						
<b>Total investment in project</b>				To exceed \$280m over the duration of the contract						
<b>Casino square footage</b>				Total facility size of 260,000 sq ft						
<b>No. of hotel rooms</b>				100 in Phase 1						
<b># food and beverage outlets</b>				6						
<b>Convention center square footage</b>				31,669 Net sq ft						
<b>Retail square footage</b>				1,164 Net sq ft						
<b>Event/entertainment facility square footage</b>				31,669 Net sq ft (multi-use with convention center)						
<b>No. of covered parking spaces</b>				Phase 2 calls for a 966-stall enclosed parking garage						
<b>No. of surface parking spaces</b>				2,357	(these are total surface parking spaces available on day-one)					

						2013		2016			
						1st Full Year of Operation		Phase 1 full build out			
No. of annual visitors				#		2,186,744					
% within 100 miles				%		1,836,744					
% of overnight visitors				%		TBD					
Annual gross gaming revenue				2,013		128,662,500.00		156,585,000.00			
Annual hotel occupancy				%		35,040					
Annual hotel revenue				\$		1,689,220					
Annual food and beverage revenue				\$		9,272,800					
Net income before federal income taxes				\$		43,378,565					
<b>Employment and Payroll</b>											
No. of FTE operating employees-total project				#		836					
Annual operating payroll-total project				\$		23,410,804.00					
<b>Economic and Fiscal Impacts</b>											
Total economic impact-construction				\$		TBD					
Total economic impact-operating				\$		TBD					
Total incremental public sector revenue-construction				\$							
Total incremental public sector costs-construction				\$							
Total incremental public sector revenue-operating				\$		38,813,805					
Total incremental public sector costs-operating				\$		6,500,000					
<b>Three Most Important Features</b>											
1	Our financing commitments for Phase 1 are in place: both in the form of debt and equity.										
2	Our proven experience of management team and unrivalled knowledge of, and proven success operating in the I-35 market.										
3	Our un-qualified support from the local community and residents as a result of our demonstrated history of partnering with local communities and businesses.										

## **PREDEVELOPMENT AGREEMENT**

THIS PREDEVELOPMENT AGREEMENT (this "Agreement") is entered into as of the 17<sup>th</sup> day of August, 2010 (the "Effective Date"), between The Board of County Commissioners of Sumner County, Kansas ("County"), and Global Gaming KS, LLC ("applicant") (the County and applicant are hereby collectively referred to as the "Parties").

### **RECITALS**

A. WHEREAS, the County is a duly organized and existing body corporate and politic under the laws of the State of Kansas; and

B. WHEREAS, the County pursuant to K.S.A. 19-101 *et. seq.*, and such other relevant statutory provisions, has the authority to promote the general and economic welfare of the County, to encourage development in order to enhance the local tax base and the creation of employment opportunities, and to enter into contractual agreements with landowners and prospective employers to achieve those purposes; and

C. WHEREAS, the Kansas Expanded Lottery Act, K.S.A. 74-8733, *et seq.* (the "Act"), was enacted the Kansas Legislature and signed by the Governor, and all defined terms used herein shall have the meanings ascribed to them in the Act unless the context clearly requires to the contrary; and

D. WHEREAS, the Act provides for the development of one Lottery Gaming Facility or Lottery Gaming Enterprise per Gaming Zone in the State, as defined in the Act; and

E. WHEREAS, Sumner County and Sedgwick are the counties located in the South central Kansas Gaming Zone; and

F. WHEREAS, the Act provides that each county in each gaming zone must submit to the qualified voters a resolution to permit the operation of a Lottery Gaming Facility within the County further provides that the election requirement may be waived by the Lottery Commission if that body determines "that after December 31, 2004, and before the effective date of this act, the county has held an election of qualified voters pursuant to the county's home rule authority: (1) At which the ballot question was in substantial compliance with the requirements of this section; (2) which was administered by the county election officer in a manner consistent with the requirements of state election law; and (3) at which a majority of the votes cast and counted was in favor of the proposition." and

G. WHEREAS, the County called an election on December 20, 2005, upon the question of "Do you support a destination resort casino in Sumner County, Kansas, in the event such is legally permitted by the state and is otherwise deemed in the best interest of the County by the Board of County Commissioners?"; and



H. WHEREAS, the question was approved with 4,842 votes in favor and 2,838 against; and

I. WHEREAS, on June 22, 2007, the Kansas Lottery Commission approved the election of December 20, 2005, pursuant to K.S.A. 74-8737(e); and

J. WHEREAS, the Act requires a Resolution of Endorsement from the County of any prospective Lottery Gaming Facility Manager, (the "Manager"), submitting a Lottery Gaming Facility Management Contract, (the "Management Contract"), to the Lottery Commission; and

K. WHEREAS, the County solicited proposals from parties seeking a Resolution of Endorsement from the County to serve as a Manager; and

L. WHEREAS, the County conducted a public hearing on August 10, 2010, ("Public Hearing") to receive information about prospective Managers regarding their qualifications, proposed sites for the Lottery Gaming Facility, and their specific development plans for a Lottery Gaming Facility or Lottery Gaming Enterprise (collectively referred to herein as the "Project"); and

M. WHEREAS, applicant submitted a proposal and appeared and presented information and testimony at the Public Hearing; and

N. WHEREAS, after duly considering all information and testimony provided in advance of and at the Public Hearing the County determined that Applicant possesses the qualifications and financial resources to construct the Project in Sumner County, Kansas and Applicant possesses the qualifications and financial resources to manage the Project; and

O. WHEREAS, the Board of County Commissioners deems it in the best interest of the County that a Lottery Gaming Facility be permitted in the County; and

P. WHEREAS, the County has determined this Projected proposed by Applicant is well suited to attract tourism and enhance the economic development prospects of the County and State; and

Q. WHEREAS, to facilitate the location of the South central Kansas Lottery Gaming Facility in Sumner County the County has determined it is in the best interest of the County based on the information and testimony provided at the Public Hearing and review of prospective Managers to issue a Resolution of Endorsement and enter into this Agreement; and

R. WHEREAS, the County desires to implement the Act and to support the Project provided there is no cost to the County to do so;

NOW, THEREFORE, in consideration of the foregoing recitals, mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the

Parties agree as follows:

- 1) Resolution of Endorsement. The County agrees to provide a resolution of endorsement to Applicant pursuant to K.S.A. 74-8734, subject to terms and conditions set forth herein.
- 2) Agreements of the Applicant.
  - a) Revenue. The applicant shall pay lottery gaming revenues to Sumner County, Sedgwick County, and any City (if applicable) the percentages set forth in the Act. Additionally, applicant shall pay all real property ad valorem and sales taxes as the same become due and payable, subject to any rights of protest.
  - b) Development of the Project. Applicant agrees to develop a first class project. The project shall be generally consistent in its program components as depicted on a preliminary master plan provided by the applicant at the Public Hearing or as described and/or depicted in the materials submitted with Applicant's proposal. Applicant shall make, or cause to be made, an infrastructure investment of at least Two Hundred and Twenty Five Million Dollars (\$225,000,000), as defined in The Act and its regulations and in accordance with the fully executed Lottery Facility Management Contract in development of its proposed project.
  - c) Provision for Adequate Infrastructure. Applicant agrees that in the development of the project, it shall construct, cause to be constructed, or provide the funds to the County for construction of adequate infrastructure to serve the project. Adequate infrastructure shall mean roadways, utilities, and public safety and emergency service facilities in a size and type to serve the employees and patrons of the project as determined by mutual agreement of applicant and the County. Applicant shall purchase and supply designated police, emergency and fire equipment and technology for the project as mutually agreed by applicant and the County and entity providing the applicable emergency service.
  - d) Professional Consultants. Applicant agrees to reimburse the County for the reasonable expenses incurred, from April 11, 2010 and thereafter, by the County for professional consultants it has hired and or that it may hire to assist in its review and consideration of any portion or phase of the proposal and/or development of a lottery gaming facility in Sumner County. This includes outside legal counsel to advise and assist the County in any matter related to the Kansas Expanded Lottery Act and litigation arising out of the County's exercise of its rights and obligations under the Act. Such expenses incurred by the County will be reimbursed by all applicants on a pro rata basis, based upon the number of developers endorsed by the County. This obligation shall continue even if an endorsed applicant subsequently withdraws its application and proposal. Upon selection and approval by the Lottery Review Board and the Kansas Racing and Gaming Commission of the manager of the South Central

gaming zone, the chosen manager shall agree to reimburse the County for reasonable expenses incurred for services rendered after the date the manager is selected and approved. Upon selection and approval by the Lottery Commission, Lottery Gaming Facility Review Board and the Kansas Racing and Gaming Commission of the manager of the South Central Gaming Zone, the chosen manager shall agree to reimburse the County for the entire amount of reasonable expenses (as described above) thereafter incurred.

- e) Applicant agrees to and shall use good faith commercially reasonable efforts
  - i) To be designated the Lottery Gaming Facility Manager for and enter into a Lottery Gaming Facility Management Contract with the Kansas Lottery with respect to the South central Gaming Zone,
  - ii) To be selected by the Kansas Lottery Gaming Facility Review Board;
  - iii) To be approved by the Kansas Racing and Gaming Commission as the Lottery Gaming Facility Manager for the South central Gaming Zone; and
  - iv) To develop and operate the proposed Gaming Facility.
- f) **Negative Covenants.** In connection with the development of the Project, applicant shall **NOT**:
  - i) Request that the County use its power of eminent domain to acquire any interest in real property for the Lottery Gaming Enterprise;
  - ii) Request the use of STAR Bond or Tax Increment Financing for construction of the Lottery Gaming Enterprise;
  - iii) Request the use of Revenue Bonds for construction of the Lottery Gaming Enterprise;
  - iv) Request the abatement of real property taxes for the Lottery Gaming Enterprise; or
  - v) Change the membership of the applicant's L.L.C. A change in membership of the applicant's L.L.C. after being endorsed by the County shall constitute a withdrawal of the applicant's proposal.
- g) Development Agreement. Following receipt of the final approval of applicant as the manager of the South Central Gaming Zone, the parties shall enter into a Development Agreement mutually agreeable to the parties, which will set forth in

detail the obligations and duties of the parties regarding the construction of the proposed project.

- h) Applicable Law and Venue. The Predevelopment Agreement will be deemed to be entered into in the State of Kansas, and will be enforceable under the laws of that state. Venue for any dispute in connection with the Predevelopment Agreement shall lie in the District Court of Sumner County, Kansas, and/or the District Court of Shawnee County, Kansas.

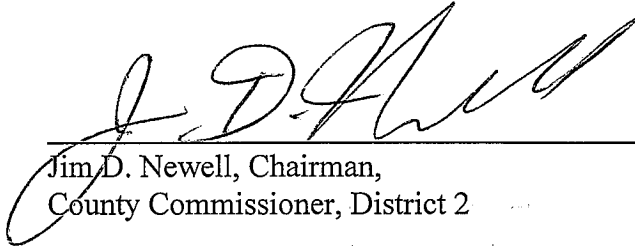
3) Miscellaneous.

- a) Assignability. Neither party will assign this Agreement without the written consent of the other party except that APPLICANT may assign this agreement to a wholly owned direct or indirect subsidiary of Applicant;
- b) Amendments. This Agreement may be supplemented or amended only by written instrument executed by the Parties affected by such supplement or amendment.
- c) Applicable Law and Venue. This Agreement will be deemed to be entered into in the State of Kansas, and will be enforceable under the laws of that state. Venue for any dispute in connection with this agreement shall lie exclusively in the District Court of Sumner County, Kansas and/or the District Court of Shawnee County, Kansas.
- d) Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.
- e) Binding Effect. This Agreement will inure to the benefit of, and be binding upon the parties hereto, and the permitted successors and assigns of the parties.
- f) No Partnership. The provisions of this Agreement are not intended to create, nor shall they in any way be interpreted or construed to create, a joint venture, partnership, or any other similar relationship between the Parties.
- g) No Waiver of Immunity. The provisions of this Agreement are not intended in any way to waive any of governmental immunity by the County.
- h) Counterparts. This Agreement may be executed in one or more counterparts and by each party on a separate counterpart, each of which when so executed and delivered shall be original, and all of which shall constitute one and the same instrument.

- i) Entire Agreement. This Agreement contains the entire understanding and agreement of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous understandings or agreements with respect to such subject matter.

IN WITNESS WHEREOF, the Parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

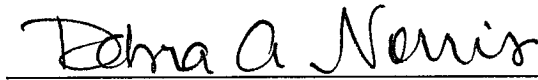
THE BOARD OF COUNTY COMMISSIONERS OF  
SUMNER COUNTY, KANSAS

  
\_\_\_\_\_  
Jim D. Newell, Chairman,  
County Commissioner, District 2

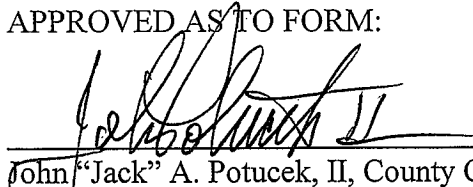
  
\_\_\_\_\_  
Garey E. Martin, County Commissioner, District 1

  
\_\_\_\_\_  
Eldon Gracy, County Commissioner, District 3

ATTEST:

  
\_\_\_\_\_  
Sumner County Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
John "Jack" A. Potucek, II, County Counselor



APPLICANT

GLOBAL GAMING

By: J. D. Elliott

Title: CEO

Resolution No. 2010-30

A RESOLUTION OF ENDORSEMENT FOR THE OPERATION OF A LOTTERY GAMING FACILITY TO BE LOCATED NEAR EXIT 19 OF THE KANSAS TURNPIKE BY GLOBAL GAMING KS, LLC, A KANSAS LIMITED LIABILITY COMPANY IN SUMNER COUNTY, KANSAS:

**WHEREAS**, Senate Bill 66, the Kansas Expanded Lottery Act (the "Act"), was approved by the Kansas Legislature, signed by the Governor, and was published in the Kansas Register, Vol. 26, No. 16, Pg. 518 on April 19, 2007; and

**WHEREAS**, the Act provides for the development of one lottery gaming facility per Gaming Zone in the State, as defined in the Act; and

**WHEREAS**, Sedgwick County and Sumner County are the counties located in the South Central Kansas Gaming Zone; and

**WHEREAS**, the Act provides that each county in each gaming zone must submit to the qualified voters a resolution to permit the operation of a Lottery Gaming Facility within the County; and

**WHEREAS**, Sedgwick County called an election on August 7, 2007, presenting the question of whether to permit a Lottery Gaming Facility in Sedgwick County; and

**WHEREAS**, the qualified voters in Sedgwick County voted against the development and operation of Lottery Gaming Facility in Sedgwick County; and

**WHEREAS**, Sumner County called an election on December 20, 2005, presenting the following question on the ballot:

"Question: Do you support a destination resort casino in Sumner County, Kansas, in the event such is legally permitted by the state and is otherwise deemed in the best interest of the County by the Board of County Commissioners?"

**WHEREAS**, the question was approved with 4,842 votes in favor and 2,838 against; and

**WHEREAS**, the election was duly noticed, conducted, and the votes counted and canvassed in the manner provided under Kansas law; and

**WHEREAS**, the qualified voters voted in favor of the development and operation of Lottery Gaming Facility in Sumner County and the certified results were transmitted to the Lottery Commission; and

**WHEREAS**, the Lottery Commission waived the requirement that an election be held in Sumner County after the effective date of the Act as the previous election regarding destination casinos held on December 20, 2005, was determined to be in substantial compliance with the election required under the Act; and

**WHEREAS**, the Act requires a Resolution of Endorsement from the County of any prospective Lottery Gaming Facility Manager submitting a Lottery Gaming Facility Management Contract to the Lottery Commission; and

**WHEREAS**, Sumner County solicited statements of qualifications for parties seeking a Resolution of Endorsement from the County as a Lottery Gaming Facility Manager; and

**WHEREAS**, the County called a public hearing ("Public Hearing") to receive information and testimony in support of prospective Lottery Gaming Facility Managers regarding their qualifications, proposed sites for the Lottery Gaming Facility, and specific development plans for the Lottery Gaming Facility and ancillary development; and

**WHEREAS**, the following parties presented statements of qualification at the Public Hearing: Peninsula Gaming Partners, LLC; Global Gaming KS, LLC; and Harrah's Sumner Investment Company, LLC; and

**WHEREAS**, after duly considering all information and testimony provided at the Public Hearing the County determined that Global Gaming KS, LLC, possessed the qualifications and financial resources to operate a Lottery Gaming Facility in Sumner County, Kansas, and

**WHEREAS**, Global Gaming KS, LLC, has options to purchase a parcel of land in close proximity to Exit 19 of the Kansas Turnpike and proposes this as the location for development and operation of a Lottery Gaming Facility; and

**WHEREAS**, Sumner County has determined this location is well suited to attract tourism and enhance the economic development prospects of the County and State; and

**WHEREAS**, to facilitate the location of the South Central Kansas Lottery Gaming Facility in Sumner County the County has determined it is in the best interest of the County based on the information and testimony provided at the Public Hearing and independent investigations of prospective Lottery Gaming Facility Managers to issue a Resolution of Endorsement at this time.

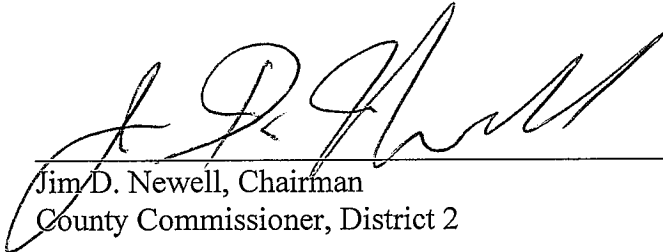
**NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE BOARD OF COMMISSIONERS OF SUMNER COUNTY, KANSAS:**


Global Gaming KS, LLC, is hereby provided the Endorsement of the County for the position of Lottery Gaming Facility Manager for a Sumner County Lottery Gaming Facility to be located near Exit 19 of the Kansas Turnpike.

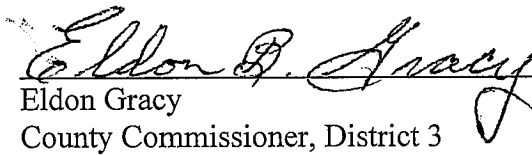


The Endorsement of the County is subject to and conditioned upon the execution of a Predevelopment Agreement between the County and Global Gaming KS, LLC, in a form satisfactory to the County.


**PASSED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMNER COUNTY,  
KANSAS, THIS 17<sup>th</sup> DAY OF AUGUST, 2010.**

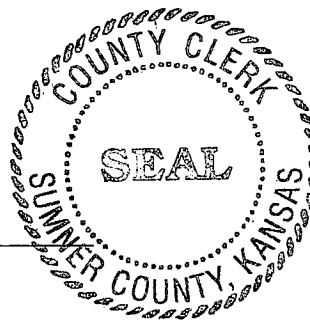
  
\_\_\_\_\_  
Jim D. Newell, Chairman  
County Commissioner, District 2

  
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Garey E. Martin  
County Commissioner, District 1

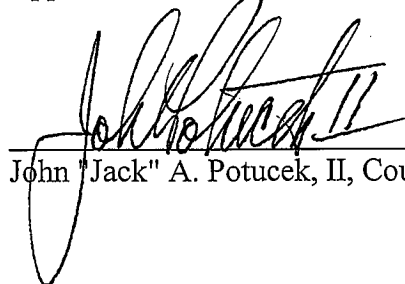
  
\_\_\_\_\_  
Eldon Gracy  
County Commissioner, District 3

Attest:

  
\_\_\_\_\_  
Debra A. Norris  
Sumner County Clerk



Approved as to Form:

  
\_\_\_\_\_  
John "Jack" A. Potucek, II, County Counselor